



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

SENATE BILL NO. 47

Volume 4 of 4

WEDNESDAY, FEBRUARY 9, 2005

The following bill was reported to the House from the Senate and ordered to be printed.

1 may deem necessary for the promotion of the health of the residents of the
2 Commonwealth including, but not limited to, hospitals, geriatric centers,
3 appropriately designed housing for the elderly, medical clinics, rehabilitation
4 centers, diagnostic centers, extended care centers and such other facilities as are
5 related to the care, research, and treatment of disease, and all property, rights,
6 easements, and interest which may be acquired by the authority for the construction
7 and operation of the project.

8 Section 492. KRS 216.803 is amended to read as follows:

9 (1) The Kentucky Health and Geriatric Authority shall be composed of five (5)
10 members who shall be the Governor, secretary for health and family services or his
11 designee, commissioner of public health, Attorney General, and the secretary of
12 revenue. These five (5) persons and their successors in office are a body corporate
13 and politic constituting a public corporation and governmental agency and
14 instrumentality of the Commonwealth by the name of the "Kentucky Health and
15 Geriatric Authority," with perpetual succession and with power in that name to
16 contract and be contracted with, to convey property, to sue and be sued, to have and
17 use a corporate seal, and to exercise, in addition to the powers and functions
18 conferred by KRS 216.800 to 216.853, all of the usual powers of corporations not
19 inconsistent with specifically enumerated powers.

20 (2) The members of the authority shall receive no compensation for their services, but
21 are entitled to reimbursement for all reasonable expenses necessarily incurred in
22 connection with performance of their duties and functions as members.

23 (3) Three (3) members of the authority shall constitute a quorum for the transaction of
24 business. The Governor shall be the chairman of the authority and the secretary for
25 health and family services or his designee shall be the vice chairman. The authority
26 shall elect a secretary and a treasurer who shall serve at the pleasure of the authority
27 and receive such compensation as may be determined by the authority. The treasurer

1 shall give bond to the authority for a faithful accounting for all funds coming into
2 his custody, in such amount as the authority may prescribe, drawn upon a surety
3 company qualified to do business in the Commonwealth, premium therefor to be
4 paid by the authority. The authority shall establish and maintain an office and the
5 secretary of the authority shall maintain therein complete records of the authority's
6 actions and proceedings, as public records open to inspection.

7 Section 493. KRS 216.860 is amended to read as follows:

8 As used in KRS 216.865:

9 (1) "Division" means the Division of Community Health Services within the Cabinet
10 for Health and Family Services;

11 (2) "Cabinet" means the Cabinet for Health and Family Services;

12 (3) "Secretary" means the secretary for health and family services; and

13 (4) "Nursing pools" means any person, firm, corporation, partnership, or association
14 engaged for hire in the business of providing or procuring temporary employment in
15 health-care facilities for medical personnel including, but not limited to, nurses,
16 nursing assistants, nurses' aides, and orderlies. For purposes of KRS 216.865,
17 nursing registries shall be considered to be nursing pools. Excluded from this
18 definition are any health-facility-based or in-house pools established to provide
19 services within the confines of such facility or business, any person who only
20 engages in providing his or her own services on a temporary basis to health-care
21 facilities, and home-health agencies licensed pursuant to KRS Chapter 216B which
22 provide or procure temporary employment in health-care facilities for medical
23 personnel.

24 Section 494. KRS 216.875 is amended to read as follows:

25 As used in KRS 216.880 to 216.890 the following definitions shall apply:

26 (1) "Prescribed pediatric extended care center" hereinafter referred to as a "PPEC
27 center," means any building or other place, whether operated for profit or not, which

undertakes through its ownership or management to provide, for a part of the day, basic services to three (3) or more medically dependent or technologically dependent children who are not related to the owner or operator by blood, marriage, or adoption and who require such services;

(2) "Basic services" include, but are not limited to, development, implementation, and monitoring of a comprehensive protocol of care, developed in conjunction with the parent or guardian, which specifies the medical, nursing, psychosocial, and developmental therapies required by the medically dependent or technologically dependent child served as well as the caregiver training needs of the child's legal guardian;

(3) "Cabinet" means the Cabinet for Health and Family Services;

(4) "Owner or operator" means any individual who has general administrative charge of a PPEC center;

(5) "Medical records" means medical records maintained in accordance with accepted professional standards and practices as specified in the administrative regulations;

(6) "Medically dependent or technologically dependent child" means a child who because of a medical condition requires continuous therapeutic interventions or skilled-nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse; and

(7) "Supportive services or contracted services" include, but are not limited to, speech therapy, occupational therapy, physical therapy, social work, developmental, child life, and psychological services.

Section 495. KRS 216.890 is amended to read as follows:

(1) On or before July 1, 1989, the Cabinet for Health and Family Services shall promulgate administrative regulations to implement the provisions of KRS 216.875 to 216.890, which shall include reasonable and fair standards. Such standards shall relate to:

- 1 (a) The assurance that PPEC services are family-centered and provide
- 2 individualized medical, developmental, and family training services;
- 3 (b) The maintenance of PPEC centers based upon the size of the structure and
- 4 number of children, relating to plumbing, heating, lighting, ventilation, and
- 5 other building conditions, including adequate space, which will ensure the
- 6 health, safety, comfort, and protection from fire of the children served;
- 7 (c) The appropriate provisions of the "Life Safety Code" (NFPA-101, 1985
- 8 edition);
- 9 (d) The number and qualifications of all personnel who have responsibility for the
- 10 care of the children served;
- 11 (e) All sanitary conditions within the PPEC center and its surroundings, including
- 12 water supply, sewage disposal, food handling, and general hygiene, and
- 13 maintenance thereof, which will ensure the health and comfort of children
- 14 served;
- 15 (f) Programs and basic services promoting and maintaining the health and
- 16 development of the children served and meeting the training needs of the
- 17 children's legal guardians;
- 18 (g) Supportive, contracted, other operational, and transportation services; and,
- 19 (h) Maintenance of appropriate medical records, data, and information relative to
- 20 the children and programs to be maintained in the facility for inspection by the
- 21 cabinet.
- 22 (2) Enforcement of standards pursuant to the adoption of administrative regulations
- 23 under KRS 216.875 to 216.890 shall not take effect until six (6) months after the
- 24 adoption of such administrative regulations.

25 Section 496. KRS 216.905 is amended to read as follows:

26 It shall be unlawful to operate or maintain a network without first obtaining a license
 27 from the Cabinet for Health and Family Services. A network shall not require a

1 certificate of need.

2 Section 497. KRS 216.910 is amended to read as follows:

- 3 (1) Any licensed network shall be permitted to establish one (1) extension site per full-
4 time physician on the staff of the network. Extension sites shall not be required to
5 have a separate license but shall conform to administrative regulations promulgated
6 by the Cabinet for Health **and Family** Services and shall be inspected on a regular
7 basis.
- 8 (2) Each network shall establish protocols for the treatment of the twenty (20) most
9 common patient problems. At a minimum, the protocols shall identify for each
10 problem a working definition, patient symptoms, diagnostic techniques, acceptable
11 values for laboratory findings, conditions under which a physician shall be
12 consulted, and treatment methods. These protocols shall be approved by the board.
13 The protocols shall be listed in a handbook provided to each midlevel health-care
14 practitioner and shall be available to patients upon request.
- 15 (3) Each network shall have a system of patient and family medical records which
16 employs the problem-oriented medical record format.
- 17 (4) A network shall employ a primary-care physician who has admitting privileges at a
18 local hospital. The network shall hire ancillary personnel as necessary to provide the
19 basic services of the network. The network may hire midlevel health-care
20 practitioners to assist the physician but there shall be one (1) physician on staff for
21 each midlevel health-care practitioner.
- 22 (5) A physician shall see each patient for whom services are provided by a midlevel
23 health-care practitioner not less than twice a year. A medical chart auditor shall
24 review the medical record entries for each patient encounter on the day of the
25 encounter and will refer to the physician immediately any deviation from protocol.
- 26 (6) Each network shall develop a quality assurance program which shall be approved by
27 the board. At a minimum, the quality assurance program shall address:

- 1 (a) Program goals and objectives;
- 2 (b) Program organization, including identification of responsible parties, the
- 3 nature of their responsibilities, and the persons to whom they report; and
- 4 (c) Identification of the patient care process.
- 5 (7) Each network shall establish a process by which it regularly evaluates the health-
- 6 care needs of its community and the services it provides in response to those needs.
- 7 (8) Each network shall provide the following educational opportunities:
- 8 (a) Ninety (90) minutes each week of continuing education to its health-care
- 9 providers on topics relating to patient care needs; and
- 10 (b) One and one-half (1.5) days leave and fifty percent (50%) of expenses up to
- 11 three hundred dollars (\$300) per year to its midlevel health-care practitioners
- 12 for approved continuing education outside of the network.
- 13 (9) Each network shall either provide directly for twenty-four (24) hour, seven (7) day
- 14 per week access to care for its patients or have formal written agreements with local
- 15 providers to insure twenty-four (24) hour, seven (7) day per week access to care for
- 16 its patients.
- 17 (10) No network may charge or collect more money for the services of any midlevel
- 18 health-care practitioner than is allowable under Medicaid for other nonphysician
- 19 practitioners.

20 Section 498. KRS 216.915 is amended to read as follows:

21 The Cabinet for Health and Family Services shall promulgate administrative regulations
22 necessary to implement KRS 216.900 to 216.910.

23 Section 499. KRS 216.920 is amended to read as follows:

24 There is hereby created the Kentucky Board of Family Health Care Providers.

- 25 (1) The board shall be composed of one (1) representative from each of the following
- 26 organizations: the Kentucky Medical Association, the Kentucky Nursing
- 27 Association, a physician from the Kentucky Public Health Association, the

1 Kentucky Dental Association, the Kentucky Hospital Association, the Kentucky
2 Primary Care Association, the Kentucky Board of Medical Licensure, the Kentucky
3 Board of Nursing, the Kentucky Board of Pharmacy, the Kentucky Academy of
4 Family Practitioners, a physician from either family practice or community
5 medicine representing each of the colleges of medicine in the Commonwealth, and a
6 consumer.

7 (2) The board shall:

- 8 (a) Certify new midlevel health-care practitioners, recertify midlevel health-care
9 practitioners annually, and revoke certification as necessary;
- 10 (b) Develop and administer qualifying examinations for midlevel health-care
11 practitioners to test knowledge of the most frequently occurring protocols;
- 12 (c) Identify continuing education requirements for midlevel health-care
13 practitioners and qualify the continuing education courses provided to them;
- 14 (d) Approve or prescribe the treatment protocols utilized by each network;
- 15 (e) Approve the quality assurance programs of each network;
- 16 (f) Approve the drug formulary used by each network; and
- 17 (g) Issue administrative regulations necessary to implement this section and KRS
18 216.925.

19 (3) The board shall meet at least quarterly. The Cabinet for Health and Family Services
20 shall provide necessary staff assistance to the board and shall reimburse board
21 members at the rate of reimbursement for the advisory councils and committees.

22 (4) Applicants for certification and recertification shall pay a fee of fifty dollars (\$50).
23 These fees shall be placed in a trust and agency fund and shall be used to cover the
24 cost of board operations and the administration of examinations.

25 (5) Upon appeal of a board decision, an administrative hearing shall be conducted in
26 accordance with KRS Chapter 13B.

27 Section 500. KRS 216.936 is amended to read as follows:

1 The Cabinet for Health and Family Services shall establish an abuse registry to include
2 information pertaining to findings of resident neglect as defined at 42 C.F.R. 488.301 or
3 abuse as defined at 42 C.F.R. 488.301, and misappropriation of resident property by a
4 nurse aide or home health aide. The abuse registry may be created by expanding or
5 modifying the existing nurse aide abuse registry to include home health aides as permitted
6 by 42 C.F.R. 483.156.

7 Section 501. KRS 216.939 is amended to read as follows:

8 The Cabinet for Health and Family Services shall promulgate administrative regulations
9 in accordance with KRS Chapter 13A that establish and maintain an abuse registry for
10 nurse aides and home health aides. The cabinet shall also expand or modify the hearing
11 and appeals procedure to include nurse aides and home health aides.

12 Section 502. KRS 216.941 is amended to read as follows:

13 (1) Notwithstanding any provision of law to the contrary, no additional license or
14 certificate otherwise required under the provisions of KRS Chapters 211, 216, 311,
15 312, or 314 shall be necessary for the voluntary provision of health care services by
16 any person who:

17 (a) Is a charitable health care provider as defined in KRS 216.940; or

18 (b) Does not regularly practice in the Commonwealth.

19 (2) No person whose license or certificate is suspended or revoked under disciplinary
20 proceedings in any jurisdiction, nor any person who renders services outside of the
21 scope of practice authorized by his or her licensure or certification or exception to
22 license or certification shall be allowed to participate with any sponsoring
23 organization as a charitable health care provider.

24 (3) Before providing charitable health care services in this state, a charitable health care
25 provider or sponsoring organization shall register with the Cabinet for Health and
26 Family Services by filing a registration form that shall contain the following
27 information:

- 1 (a) The name, address, and phone number of the charitable health care provider;
- 2 (b) Written and verifiable documentation of a current Kentucky license including,
3 if applicable, a license granted to an individual under a reciprocal agreement
4 with another state or country;
- 5 (c) The name, principal office address, phone number, and principal officer of any
6 sponsoring organization;
- 7 (d) The dates, locations, types of services, and intended recipients of any
8 charitable health care services to be performed in the state;
- 9 (e) Information as to any medical malpractice insurance procured under KRS
10 304.40-075 or otherwise; and
- 11 (f) Other information as the cabinet may require by administrative regulation.
- 12 (4) The cabinet shall provide, upon request of the charitable health care provider or
13 sponsoring organization, any information available as to declared emergencies,
14 underserved populations, and lack of access to health care in the state that will assist
15 the charitable health care provider or sponsoring organization in the provision of
16 these services.
- 17 (5) Boards of health created under KRS Chapter 212 may submit requests for charitable
18 health care providers in their jurisdictions to be listed in any information provided.
- 19 (6) Each sponsoring organization shall maintain a list of health care providers
20 associated with its provision of charitable health care services. For each health care
21 provider, the sponsoring organization shall maintain a copy of a current license,
22 certificate, or statement of exemption from licensure or certification and shall
23 require each health care provider to attest in writing that his or her license or
24 certificate is not suspended or revoked under disciplinary proceedings in any
25 jurisdiction. The sponsoring organization shall maintain its records of charitable
26 health care providers for at least five (5) years after the provision of charitable
27 health care services, including actual dates, types of services, and recipients of

charitable health care services, and shall furnish these records upon the request of the Cabinet for Health and Family Services. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

(7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of KRS 216.940 to 216.945, in accordance with the provisions of KRS Chapter 13B.

(8) The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

Section 503. KRS 216A.040 is amended to read as follows:

There shall be a Kentucky Board of Licensure for Nursing Home Administrators located within the Finance and Administration Cabinet for administrative and budgetary purposes. The board shall be composed of ten (10) members. The secretary of the Cabinet for Health and Family Services shall be an ex officio member of the board. The other members of the board shall be appointed by the Governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky Hospital Association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky State Medical Association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member shall be a practicing nursing-home administrator appointed from a list of two (2) names submitted by the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other four (4) members shall be practicing nursing-home administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky Association of Health Care Facilities and duly licensed under this chapter, except that such members of the

1 initial board shall be required only to possess the qualifications and be eligible for
2 licensure as required in this chapter.

3 Section 504. KRS 216B.010 is amended to read as follows:

4 The General Assembly finds that the licensure of health facilities and health services is a
5 means to insure that the citizens of this Commonwealth will have safe, adequate, and
6 efficient medical care; that the proliferation of unnecessary health-care facilities, health
7 services, and major medical equipment results in costly duplication and underuse of such
8 facilities, services, and equipment; and that such proliferation increases the cost of quality
9 health care within the Commonwealth. Therefore, it is the purpose of this chapter to fully
10 authorize and empower the Cabinet for Health and Family Services to perform any
11 certificate-of-need function and other statutory functions necessary to improve the quality
12 and increase access to health-care facilities, services, and providers, and to create a cost-
13 efficient health-care delivery system for the citizens of the Commonwealth.

14 Section 505. KRS 216B.0441 is amended to read as follows:

- 15 (1) As used in this section, "adult day health care program" means a program licensed
16 by the Cabinet for Health and Family Services that provides organized health care
17 for its clients during specified daytime hours, that may include continuous
18 supervision to assure that health care needs are being met, supervision of self-
19 administration of medications, and provision of nursing services, personal care
20 services, self-care training, and social and recreational activities for individuals of
21 all ages.
- 22 (2) The cabinet shall promulgate administrative regulations in accordance with KRS
23 Chapter 13A to establish health, safety, and treatment requirements for licensed
24 adult day health care programs. No person, association, corporation, or other
25 organization shall operate or maintain an adult day health care program without first
26 obtaining a license as provided in this section.
- 27 (3) The cabinet may issue a license upon request to any adult day health care program

meeting the standards required under subsection (2) of this section and administrative regulations promulgated thereunder. The cabinet may deny, revoke, suspend, or modify an adult day health care program license for failure to comply with standards set by the cabinet.

(4) Services provided in an adult day health care program for its clients may include:

(a) Medical therapeutic services; and

(b) Physical and speech therapy.

Section 506. KRS 216B.175 is amended to read as follows:

(1) A physician assistant, credentialed under KRS Chapter 311, when those duties and responsibilities are within the scope of training received in an approved program and within the scope of the supervising physician's practice, or an advanced registered nurse practitioner licensed under KRS Chapter 314, may:

(a) Perform a history and physical examination for a patient admitted to an acute care or psychiatric hospital licensed under this chapter; and

(b) Order and review continuation of restraints and seclusion as a health care practitioner in accordance with 42 C.F.R. 482.13.

(2) A history and physical examination shall be performed no more than seven (7) days before or twenty-four (24) hours after a patient is admitted to an acute care or psychiatric hospital licensed under this chapter.

(3) The history and physical examination that has been performed in compliance with subsection (2) of this section is transferable to another licensed level of care within the same hospital.

(4) The Cabinet for Health and Family Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the content of the history and physical examination required by subsection (2) of this section performed in an acute or psychiatric hospital that shall be used by the licensing entity.

1 Section 507. KRS 216B.300 is amended to read as follows:

2 As used in KRS 216B.300 to 216B.320 and KRS 216B.990(7), unless the context
3 requires otherwise:

4 (1) "Cabinet" means the Cabinet for Health and Family Services or its designee.

5 "Designee" means any agency established under KRS Chapter 211 or KRS
6 147A.050 whose duties related to this chapter shall be set forth in administrative
7 regulation;

8 (2) "Secretary" means the secretary of the Cabinet for Health and Family Services;

9 (3) "Boarder" means a person who does not require supervision or assistance related to
10 medication, activities of daily living, or a supervised plan of care; and

11 (4) "Boarding home" means any home, facility, institution, lodging, or other
12 establishment, however named, which accommodates three (3) or more adults not
13 related by blood or marriage to the owner, operator, or manager, and which offers or
14 holds itself out to offer room and board on a twenty-four (24) hour basis for hire or
15 compensation. It shall not include any facility which is otherwise licensed and
16 regulated by the cabinet or any hotel as defined in KRS 219.011(3).

17 Section 508. KRS 216B.303 is amended to read as follows:

18 Every resident in a boarding home, as defined in KRS 216B.300, shall have at least the
19 following rights:

20 (1) Before entering a boarding home, the resident or the resident's guardian, if any, shall
21 be fully informed in writing, as evidenced by the resident's written acknowledgment
22 or that of the resident's guardian, of all services provided by the boarding home and
23 all applicable charges.

24 (2) Before entering a boarding home, the resident or the resident's guardian shall be
25 fully informed in writing, as evidenced by the resident's written acknowledgment or
26 that of the resident's guardian, of all the resident's rights as defined in this section,
27 and a list of any rules established by the boarding home.

- 1 (3) All residents shall be allowed to exercise their rights as a resident and a citizen, and
2 may voice grievances and recommend changes in policies and services to the
3 boarding home operator and to outside representatives of their choice, free from
4 restraint, interference, coercion, discrimination, or reprisal.
- 5 (4) All residents shall be free from mental and physical abuse.
- 6 (5) Each resident may manage the use of his personal funds. The boarding home
7 operator shall not require a resident to designate the operator as payee for any
8 benefits received by the resident. However, if the operator accepts the responsibility
9 for managing the resident's personal funds as evidenced by the operator's written
10 acknowledgment, proper accounting and monitoring of such funds shall be made.
11 This shall include the operator giving quarterly itemized statements to the resident
12 or the resident's guardian which detail the status of the resident's personal funds and
13 any transactions in which such funds have been received or disbursed. The operator
14 shall return to the resident his valuables, personal possessions, and any unused
15 balance of moneys from his account at the time the resident leaves the boarding
16 home.
- 17 (6) Residents shall not be required to perform services for the boarding home.
- 18 (7) Residents may associate and communicate privately with persons of their choice,
19 within reasonable hours established by the boarding home, and send and receive
20 personal mail unopened.
- 21 (8) No resident shall be detained against the resident's will. Residents shall be permitted
22 and encouraged to go outdoors and leave the premises as they wish.
- 23 (9) Residents shall be permitted to participate in activities of social, religious, and
24 community groups at their discretion.
- 25 (10) Residents shall be assured of at least visual privacy in multibed rooms and in
26 bathrooms.
- 27 (11) If the resident has been adjudicated wholly mentally disabled in both financial and

1 personal affairs in accordance with KRS 387.590, the resident's guardian shall not
2 place the ward in a boarding home.

3 (12) Each resident shall be treated with consideration, respect, and full recognition of his
4 dignity and individuality.

5 (13) Residents shall have access to a telephone at a convenient location within the
6 boarding home for making and receiving telephone calls subject to reasonable rules
7 established by the boarding home.

8 (14) Residents have the right to have private meetings with inspectors representing the
9 Cabinet for Health and Family Services.

10 (15) Each resident and his guardian has the right to have access to all inspection reports
11 on the boarding home.

12 Section 509. KRS 216B.305 is amended to read as follows:

13 (1) No person, association, business entity, or organization shall advertise, solicit
14 boarders, or operate a boarding home without registering, on an annual basis, in a
15 manner and form prescribed by the secretary. No person who has been convicted of
16 a crime of abuse under KRS 508.100 to 508.120 or who has had a report of abuse
17 substantiated by the cabinet shall be registered to operate a boarding home. The
18 secretary shall impose a fee, not to exceed one hundred dollars (\$100), for this
19 registration.

20 (2) The secretary shall adopt standards, by administrative regulation pursuant to KRS
21 Chapter 13A, for the operation of boarding homes. The administrative regulations
22 shall include minimum requirements in the following areas:

23 (a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms
24 occupied by one (1) boarding home resident shall contain at least sixty (60)
25 square feet of floor space. Rooms occupied by more than one (1) occupant
26 shall contain at least forty (40) square feet of floor space for each occupant;

27 (b) Bedding, linens, and laundry services provided to residents;

- 1 (c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation
- 2 of the premises;
- 3 (d) Heating, lighting, and fire prevention, including the installation and
- 4 maintenance of smoke detectors;
- 5 (e) Maintenance of the building;
- 6 (f) Food handling, preparation, and storage, and kitchen sanitation;
- 7 (g) Nutritional standards sufficient to meet the boarder's need;
- 8 (h) Complaint procedures whereby residents may lodge complaints with the
- 9 cabinet concerning the operation of the boarding home; and
- 10 (i) Initial and periodic screening procedures to ensure that individuals meet the
- 11 definition of "boarder" under KRS 216B.300(3).
- 12 (3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause
- 13 an unannounced inspection to be made of the boarding home, either by cabinet
- 14 personnel or through the local health department acting on behalf of the cabinet, to
- 15 determine if the boarding home is in compliance with:
- 16 (a) Standards established in subsections (1) and (2) of this section;
- 17 (b) Administrative regulations relating to the operation of boarding homes
- 18 promulgated pursuant to subsection (2) of this section; and
- 19 (c) All applicable local health, fire, building, and safety codes and zoning
- 20 ordinances.
- 21 (4) (a) A boarding home shall not be registered to any person, association, business
- 22 entity, or organization that has been previously penalized for operating a
- 23 boarding home without a registration or that has had a previously denied or
- 24 revoked registration to operate a boarding home, for a period of five (5) years
- 25 following the date of imposition of the previous penalty or denial or
- 26 revocation of registration.
- 27 (b) A boarding home operator may appeal the cabinet's denial of initial or annual

1 registration, and an administrative hearing shall be conducted in accordance
2 with KRS Chapter 13B. A hearing held for a summary suspension shall be
3 expedited and shall be in accordance with administrative regulations
4 promulgated by the cabinet. If a boarding home continues to operate in
5 violation of administrative regulations promulgated pursuant to subsection (2)
6 of this section, the cabinet shall institute injunctive proceedings in Circuit
7 Court to terminate the operation of the boarding home.

8 (5) Any person, association, business entity, or organization that submits an application
9 to register a boarding home that conceals a previously denied or revoked application
10 or conceals a penalty received for operating a boarding home without a registration
11 shall be liable for a civil penalty of at least one thousand dollars (\$1,000) but not
12 more than five thousand dollars (\$5,000). Any registration issued in reliance upon
13 the application concealing information shall be immediately revoked.

14 (6) Initial and annual registration may be denied and existing registration may be
15 revoked for any of the following:

16 (a) The boarding home fails to achieve or maintain substantial and continuing
17 compliance with administrative regulations promulgated pursuant to
18 subsection (2) of this section;

19 (b) The boarding home fails or refuses to correct violations within a reasonable
20 time as specified by the cabinet; or

21 (c) The applicant for registration or the registrant has been convicted of a crime
22 related to abuse, neglect, or exploitation of an adult or has had an incident of
23 adult abuse, neglect, or exploitation as defined in KRS 209.020, substantiated
24 by the cabinet.

25 (7) Employees or designated agents of the cabinet shall have the authority to enter at
26 any time a boarding home or any premises suspected of operating as an unregistered
27 boarding home for the purpose of conducting an inspection or investigating a

1 complaint.

2 (8) A boarding home shall not handle, store, dispense, or assist with the dispensing of a
3 boarder's prescription or non-prescription medications.

4 (9) Upon request of the boarder, the boarding home shall provide access to a lockable
5 compartment for use by a resident who requests secure storage for prescription
6 medication.

7 (10) If a boarding home fails to meet a minimum standard established in subsection (2)
8 or (3) of this section and is in such a condition that the cabinet determines that the
9 boarding home's continued operation poses a significant risk to the health and safety
10 of its residents, the cabinet may summarily suspend the registration of the boarding
11 home by ordering that its operations cease until corrections are made or until a
12 hearing is held on the appropriateness of the suspension.

13 (11) Nothing in this section or KRS 216B.303 shall be construed to prohibit local
14 governments from imposing requirements on boarding homes that are stricter than
15 those imposed by administrative regulations of the Cabinet for Health and Family
16 Services.

17 Section 510. KRS 216B.450 is amended to read as follows:

18 As used in this section and KRS 216B.455:

19 (1) "Cabinet" means the Cabinet for Health and Family Services;

20 (2) "Community-based" means a facility that is located in an existing residential
21 neighborhood or community;

22 (3) "Freestanding" means a completely detached building or two (2) residences under
23 one (1) roof that are clearly separate and can serve youth independently;

24 (4) "Home-like" means a residence with living space designed to accommodate the
25 daily living needs and tasks of a family unit, with opportunity for adult-child
26 communication, shared tasks, adult-child learning, congregate meals, and family-
27 type routines appropriate to the ages and levels of functioning of the residents; and

1 (5) "Psychiatric residential treatment facility" means a licensed, community-based, and
2 home-like facility with a maximum of nine (9) beds which provides inpatient
3 psychiatric residential treatment to residents age six (6) to twenty-one (21) years
4 who have an emotional disability or severe emotional disability as defined in KRS
5 200.503, with an age range of no greater than five (5) years at the time of admission
6 in a living unit.

7 Section 511. KRS 216B.455 is amended to read as follows:

8 (1) A certificate of need shall be required for all psychiatric residential treatment
9 facilities. The application for a certificate of need shall include formal written
10 agreements of cooperation that identify the nature and extent of the proposed
11 working relationship between the proposed psychiatric residential treatment facility
12 and each of the following agencies, organizations, or facilities located in the service
13 area of the proposed facility:

14 (a) Regional interagency council for children with emotional disability or severe
15 emotional disability as defined in KRS 200.509;

16 (b) Department for Community Based Services;

17 (c) Local school districts;

18 (d) At least one (1) psychiatric hospital; and

19 (e) Any other agency, organization, or facility deemed appropriate by the cabinet.

20 (2) Notwithstanding provisions for granting of a nonsubstantive review of a certificate
21 of need application under KRS 216B.095, the cabinet shall review and approve the
22 nonsubstantive review of an application seeking to increase the number of beds as
23 permitted by KRS 216B.450 if the application is submitted by an eight (8) bed or
24 sixteen (16) bed psychiatric residential treatment facility licensed and operating on
25 July 13, 2004. The cabinet shall base its approval of expanded beds upon the
26 psychiatric residential treatment facility's ability to meet standards designed by the
27 cabinet to provide stability of care. The standards shall be promulgated by the

1 cabinet in an administrative regulation in accordance with KRS Chapter 13A. An
2 application under this subsection shall not be subject to any moratorium relating to
3 certificate of need.

4 (3) All psychiatric residential treatment facilities shall comply with the licensure
5 requirements as set forth in KRS 216B.105.

6 (4) All psychiatric residential treatment facilities shall be certified by the Joint
7 Commission on Accreditation of Healthcare Organizations, or the Council on
8 Accreditation, or any other accrediting body with comparable standards that is
9 recognized by the state.

10 (5) A psychiatric residential treatment facility shall not be located in or on the grounds
11 of a psychiatric hospital. More than one (1) freestanding psychiatric residential
12 treatment facility may be located on the same campus that is not in or on the
13 grounds of a psychiatric hospital.

14 (6) The total number of psychiatric residential treatment facility beds shall not exceed
15 three hundred and fifteen (315) beds statewide, and shall be distributed among the
16 state mental hospital districts established by administrative regulations promulgated
17 by the Cabinet for Health and Family Services under KRS 210.300 as follows:

18 (a) District I for seventy-two (72) beds;

19 (b) District II for ninety-nine (99) beds;

20 (c) District III for ninety (90) beds; and

21 (d) District IV for fifty-four (54) beds.

22 (7) (a) The Cabinet for Health and Family Services ~~and the Cabinet for Families~~
23 ~~and Children~~ shall investigate the need for children's psychiatric residential
24 treatment services for specialized populations including, but not limited to,
25 sexual offenders, children with physical and developmental disabilities, and
26 children with dual diagnoses.

27 (b) The cabinets shall report to the Governor and the Legislative Research

Commission by August 1, 2005, on a plan to enable children with specialized needs to be served in community-based psychiatric treatment facilities in Kentucky. The plan shall include methods to:

1. Identify the specialized populations;
2. Develop services targeted for the specialized populations; and
3. Establish a Medicaid reimbursement rate for specialized facilities in Kentucky.

Section 512. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

- (1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;
- (2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act. For the purposes of KRS 217.136 and 217.137, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;
- (3) "Cabinet" means the Cabinet for Health and Family Services or its designee;
- (4) "Color" means but is not limited to black, white, and intermediate grays;
- (5) "Color additive" means a material that:
 - (a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the

- 1 soil and thereby affecting its color, whether before or after harvest; or
- 2 (b) When added or applied to a food, drug, or cosmetic, or to the human body or
- 3 any part thereof, is capable, alone or through reaction with another substance,
- 4 of imparting color. "Color additive" does not include any material that has
- 5 been or may in the future be exempted under the federal act;
- 6 (6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not
- 7 securely protected from dust, dirt, and as far as may be necessary by all reasonable
- 8 means, from all foreign or injurious contaminants;
- 9 (7) "Cosmetic" means:
- 10 (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into,
- 11 or otherwise applied to the human body or any part thereof for cleansing,
- 12 beautifying, promoting attractiveness, or altering the appearance; and
- 13 (b) Articles intended for use as a component of those articles, except that the term
- 14 shall not include soap;
- 15 (8) "Device," except when used in subsection (48) of this section, KRS 217.035(6),
- 16 KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments,
- 17 apparatus, and contrivances, including their components, parts, and accessories,
- 18 intended:
- 19 (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease
- 20 in man or other animals; or
- 21 (b) To affect the structure or any function of the body of man or other animals;
- 22 (9) "Dispense" means to deliver a drug or device to an ultimate user or research subject
- 23 by or pursuant to the lawful order of a practitioner, including the packaging,
- 24 labeling, or compounding necessary to prepare the substance for that delivery;
- 25 (10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the
- 26 use of an ultimate user;
- 27 (11) "Drug" means:

- 1 (a) Articles recognized in the official United States pharmacopoeia, official
2 homeopathic pharmacopoeia of the United States, or official national
3 formulary, or any supplement to any of them;
- 4 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or
5 prevention of disease in man or other animals;
- 6 (c) Articles, other than food, intended to affect the structure or any function of the
7 body of man or other animals; and
- 8 (d) Articles intended for use as a component of any article specified in this
9 subsection but does not include devices or their components, parts, or
10 accessories;
- 11 (12) "Enriched," as applied to flour, means the addition to flour of vitamins and other
12 nutritional ingredients necessary to make it conform to the definition and standard
13 of enriched flour as defined under the federal act;
- 14 (13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental
15 Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;
- 16 (14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it
17 relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments
18 thereto;
- 19 (15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301
20 et seq., 52 Stat. 1040 et seq., or amendments thereto;
- 21 (16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed,
22 evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been
23 added, or which has been blended or compounded with, any fat or oil other than
24 milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of
25 substances used for flavoring purposes only, so that the resulting product is an
26 imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or
27 frozen desserts, whether or not condensed, evaporated, concentrated, frozen,

1 powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed
2 or unsealed. This definition does not mean or include any milk or cream from which
3 no part of the milk or butter fat has been extracted, whether or not condensed,
4 evaporated, concentrated, powdered, dried, or desiccated, to which has been added
5 any substance rich in vitamins, nor any distinctive proprietary food compound not
6 readily mistaken for milk or cream or for condensed, evaporated, concentrated,
7 powdered, dried, or desiccated milk or cream, if the compound is prepared and
8 designed for the feeding of infants or young children, sick or infirm persons, and
9 customarily used on the order of a physician, and is packed in individual containers
10 bearing a label in bold type that the contents are to be used for those purposes; nor
11 shall this definition prevent the use, blending, or compounding of chocolate as a
12 flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in
13 containers, hermetically sealed or unsealed, to or with which has been added,
14 blended or compounded no other fat or oil other than milk or butter fat;

15 (17) "Flour" means only the foods commonly known as flour, white flour, wheat flour,
16 plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising
17 wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour,
18 defined under the federal act;

19 (18) "Food" means:

- 20 (a) Articles used for food or drink for man or other animals;
- 21 (b) Chewing gum; and
- 22 (c) Articles used for components of any such article;

23 (19) "Food additive" means any substance the intended use of which results or may be
24 reasonably expected to result, directly or indirectly, in its becoming a component or
25 otherwise affecting the characteristics of any food, including any substance intended
26 for use in producing, manufacturing, packing, processing, preparing, treating,
27 packaging, transporting, or holding food; and including any source of radiation

intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

- (a) A pesticide chemical in or on a raw agricultural commodity;
- (b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
- (c) A color additive; or
- (d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, home-based processors, or home-based microprocessors;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments

- 1 serving beverages only in single service or original containers, or retail food stores
2 which only cut, slice, and prepare cold-cut sandwiches for individual consumption;
- 3 (22) "Food storage warehouse" means any establishment in which food is stored for
4 subsequent distribution;
- 5 (23) "Immediate container" does not include package liners;
- 6 (24) "Imminent health hazard" means a significant threat or danger to health that is
7 considered to exist when there is evidence sufficient to show that a product,
8 practice, circumstance, or event creates a situation that requires immediate
9 correction or cessation of operation to prevent illness or injury based on:
- 10 (a) The number of potential illnesses or injuries; or
11 (b) The nature, severity, and duration of the anticipated illness or injury;
- 12 (25) "Interference" means threatening or otherwise preventing the performance of lawful
13 inspections or duties by agents of the cabinet during all reasonable times of
14 operation;
- 15 (26) "Label" means a display of written, printed, or graphic matter upon the immediate
16 container of any article; and a requirement made by or under authority of KRS
17 217.005 to 217.215 that any word, statement, or other information appearing on the
18 label shall not be considered to be complied with unless the word, statement, or
19 other information also appears on the outside container or wrapper, if any there be,
20 of the retail package of the article, or is easily legible through the outside container
21 or wrapper;
- 22 (27) "Labeling" means all labels and other written, printed, or graphic matter:
- 23 (a) Upon an article or any of its containers or wrappers; or
24 (b) Accompanying the article;
- 25 (28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act,
26 as amended, and under which definition its label is required to bear the statement
27 "Caution: Federal law prohibits dispensing without prescription.";

- 1 (29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et
2 seq., 34 Stat. 1260 et seq., including any amendments thereto;
- 3 (30) "New drug" means:
- 4 (a) Any drug the composition of which is such that the drug is not generally
5 recognized among experts qualified by scientific training and experience to
6 evaluate the safety of drugs as safe for use under the conditions prescribed,
7 recommended, or suggested in the labeling thereof; or
- 8 (b) Any drug the composition of which is such that the drug, as a result of
9 investigations to determine its safety for use under prescribed conditions, has
10 become so recognized, but which has not, otherwise than in the investigations,
11 been used to a material extent or for a material time under the conditions;
- 12 (31) "Official compendium" means the official United States pharmacopoeia, official
13 homeopathic pharmacopoeia of the United States, official national formulary, or any
14 supplement to any of them;
- 15 (32) "Person" means an individual, firm, partnership, company, corporation, trustee,
16 association, or any public or private entity;
- 17 (33) "Pesticide chemical" means any substance that alone in chemical combination, or in
18 formulation with one or more other substances, is an "economic poison" within the
19 meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments
20 thereto, and that is used in the production, storage, or transportation of raw
21 agricultural commodities;
- 22 (34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products
23 Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any
24 amendments thereto;
- 25 (35) "Practitioner" means medical or osteopathic physicians, dentists, chiropractists, and
26 veterinarians who are licensed under the professional licensing laws of Kentucky to
27 prescribe and administer drugs and devices. "Practitioner" includes optometrists

1 when administering or prescribing pharmaceutical agents authorized in KRS
2 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS
3 314.011 and 314.042, physician assistants when administering or prescribing
4 pharmaceutical agents as authorized in KRS 311.858, and health care professionals
5 who are residents of and actively practicing in a state other than Kentucky and who
6 are licensed and have prescriptive authority under the professional licensing laws of
7 another state, unless the person's Kentucky license has been revoked, suspended,
8 restricted, or probated, in which case the terms of the Kentucky license shall
9 prevail;

10 (36) "Prescription" means a written or oral order for a drug or medicine, or combination
11 or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or
12 authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner,
13 and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
14 disease in man or other animals;

15 (37) "Prescription blank" means a document that conforms with KRS 217.216 and is
16 intended for prescribing a drug to an ultimate user;

17 (38) "Raw agricultural commodity" means any food in its raw or natural state, including
18 all fruits that are washed, colored, or otherwise treated in their unpeeled natural
19 form prior to marketing;

20 (39) "Retail food establishment" means any food service establishment, retail food store,
21 or a combination of both within the same establishment;

22 (40) "Retail food store" means any fixed or mobile establishment where food or food
23 products, including prepackaged, labeled sandwiches or other foods to be heated in
24 a microwave or infrared oven at the time of purchase, are offered for sale to the
25 consumer, and intended for off-premises consumption, but does not include
26 establishments which handle only prepackaged, snack-type, nonpotentially
27 hazardous foods, markets that offer only fresh fruits and vegetables for sale, food

- 1 service establishments, food and beverage vending machines, vending machine
2 commissaries, or food processing establishments;
- 3 (41) "Salvage distributor" means a person who engages in the business of distributing,
4 peddling, or otherwise trafficking in any salvaged merchandise;
- 5 (42) "Salvage processing plant" means an establishment operated by a person engaged in
6 the business of reconditioning, labeling, relabeling, repackaging, reconditioning,
7 sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or
8 distributes for human or animal consumption or use any salvaged food, beverage,
9 including beer, wine and distilled spirits, vitamins, food supplements, dentifrices,
10 cosmetics, single-service food containers or utensils, containers and packaging
11 materials used for foods and cosmetics, soda straws, paper napkins, or any other
12 product of a similar nature that has been damaged or contaminated by fire, water,
13 smoke, chemicals, transit, or by any other means;
- 14 (43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;
- 15 (44) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 16 (45) "Temporary food service establishment" means any food service establishment
17 which operates at a fixed location for a period of time, not to exceed fourteen (14)
18 consecutive days;
- 19 (46) "Traffic" has the same meaning as it does in KRS 218A.010;
- 20 (47) "Ultimate user" has the same meaning as it does in KRS 218A.010;
- 21 (48) If an article is alleged to be misbranded because the labeling is misleading, or if an
22 advertisement is alleged to be false because it is misleading, in determining whether
23 the labeling or advertisement is misleading, there shall be taken into account,
24 among other things, not only representations made or suggested by statement, word,
25 design, device, sound, or in any combination thereof, but also the extent to which
26 the labeling or advertisement fails to reveal facts that are material in the light of the
27 representations or material with respect to consequences which may result from the

1 use of the article to which the labeling or advertisement relates under the conditions
2 of use prescribed in the labeling or advertisement thereof or under the conditions of
3 use as are customary or usual;

4 (49) The representation of a drug in its labeling or advertisement as an antiseptic shall be
5 considered to be a representation that it is a germicide, except in the case of a drug
6 purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing,
7 ointment, dusting powder, or other use involving prolonged contact with the body;

8 (50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs,
9 devices, or cosmetics shall be considered to include the manufacture, production,
10 processing, packing, exposure, offer, possession, and holding of those articles for
11 sale, the sale, dispensing, and giving of those articles, and the supplying or applying
12 of those articles in the conduct of any food, drug, or cosmetic establishment;

13 (51) "Home" means a primary residence occupied by the processor, that contains only
14 two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators
15 used for cold storage. This equipment shall have been designed for home use and
16 not for commercial use, and shall be operated in the kitchen within the residence;

17 (52) "Formulated acid food product" means an acid food in which the addition of a small
18 amount of low-acid food results in a finished equilibrium pH of 4.6 or below that
19 does not significantly differ from that of the predominant acid or acid food;

20 (53) "Acidified food product" means a low-acid food to which acid or acidic food is
21 added and which has a water activity value greater than 0.85, and a finished
22 equilibrium pH of 4.6 or below;

23 (54) "Low-acid food" means foods, other than alcoholic beverages, with a finished
24 equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

25 (55) "Acid food" means foods that have a natural pH of 4.6 or below;

26 (56) "Home-based processor" means a farmer who, in the farmer's home, produces or
27 processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum

1 syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies;

2 (57) "Home-based microprocessor" means a farmer who, in the farmer's home or
3 certified or permitted kitchen, produces or processes acid foods, formulated acid
4 food products, acidified food products, or low-acid canned foods, and who has a net
5 income of less than thirty-five thousand dollars (\$35,000) annually from the sale of
6 the product;

7 (58) "Certified" means any person or home-based microprocessor who:

8 (a) Has attended the Kentucky Cooperative Extension Service's microprocessing
9 program or pilot microprocessing program and has been identified by the
10 Kentucky Cooperative Extension Service as having satisfactorily completed
11 the prescribed course of instruction; or

12 (b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10; and

13 (59) "Farmer" means a person who is a resident of Kentucky and owns or rents
14 agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land
15 pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to
16 217.139, "farmer" also means any person who is a resident of Kentucky and has
17 grown the primary horticultural and agronomic ingredients used in the home-based
18 processed products which they have produced.

19 Section 513. KRS 217.177 is amended to read as follows:

20 (1) No person engaged in sales at retail shall display hypodermic syringes or needles in
21 any portion of the place of business which is open or accessible to the public.

22 (2) Every person engaged in sales of hypodermic syringes or needles at retail shall
23 maintain a bound record in which shall be kept:

24 (a) The name of the purchaser; and

25 (b) The address of the purchaser; and

26 (c) The quantity of syringes or needles purchased; and

27 (d) The date of the sale; and

1 (e) Planned use of such syringes or needles.

2 (3) Said record shall be maintained for a period of two (2) years from the date of the
3 sale and shall be available for inspection during business hours by any law
4 enforcement officer, agent or employee of the Cabinet for Health and Family
5 Services or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.

6 (4) No person shall present false identification or give a false or fictitious name or
7 address in obtaining or attempting to obtain any hypodermic syringe or needle.

8 (5) No person engaged in the retail sale of hypodermic syringes or needles shall:

9 (a) Fail to keep the records required by this section; or

10 (b) Fraudulently alter any record required to be kept by this section; or

11 (c) Destroy, before the time period required by this section has elapsed, any
12 record required to be kept by this section; or

13 (d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does
14 not present the identification required by this section; or

15 (e) Disclose the names in said book except to those required by this section.

16 (6) Any physician, other licensed medical person, hospital, or clinic disposing of
17 hypodermic syringes or needles shall crush the barrel of same or otherwise render
18 the instrument incapable of further use.

19 Section 514. KRS 217.184 is amended to read as follows:

20 (1) All police officers and deputy sheriffs, directly employed full-time by state, county,
21 city, or urban-county governments, the State Police, the Cabinet for Health and
22 Family Services, the offices of all city, county, and Commonwealth's attorneys, the
23 Office of the Attorney General, and any of their officers and agents, within their
24 respective jurisdictions, shall enforce KRS 217.207, 217.208, 217.209, 217.181,
25 and 217.182 relating to legend drugs and cooperate with all agencies charged with
26 the enforcement of the laws of the United States, of this state, and of all other states
27 relating to legend drugs.

1 (2) Designated agents of the Cabinet for Health and Family Services~~[Human~~
 2 ~~Resources]~~ and the Kentucky Board of Pharmacy are empowered to remove from
 3 the files of any pharmacy or other custodian any prescription or other legend drug
 4 record upon tendering a receipt. The receipt shall be sufficiently detailed to
 5 accurately identify the record and a copy of the records seized shall be returned to
 6 the pharmacist within a reasonable amount of time.

7 Section 515. KRS 217.285 is amended to read as follows:

8 (1) Each food service establishment, having an on-premises seating capacity of twenty-
 9 five (25) persons or more, shall post inside the establishment, in a location
 10 conspicuous to employees, a choke-saving techniques poster meeting the following
 11 requirements.

12 (2) The choke-saving techniques poster shall meet the following specifications:

13 (a) The poster shall depict through illustration and description procedures for the
 14 removal of food which is lodged in a person's throat; and

15 (b) The techniques illustrated and described shall include, but need not be limited
 16 to, the procedures whereby the choking person is grasped around the lower
 17 chest and upper abdomen and given a quick jerk, thus putting increased
 18 interabdominal pressure on the lungs and expelling the foreign matter.

19 (3) The Cabinet for Health and Family Services shall produce or requisition the
 20 production of the choke-saving techniques poster as provided in this section and
 21 shall supply the posters to the local health departments for distribution without cost
 22 to food establishments.

23 Section 516. KRS 217.380 is amended to read as follows:

24 (1) The officials in charge of the enforcement of the pure food laws of this state, the
 25 secretary for health and family services, the local health officers, and the duly
 26 appointed agents of all such, shall enforce the provisions of KRS 217.280 to
 27 217.390. For this purpose such officers shall have full power at all times to enter

1 every building, room, inclosure or premises occupied or used or suspected of being
2 occupied or used for the preparation or manufacture for sale, or the storage, sale,
3 distribution, or transportation, of such food, and to inspect the premises and all
4 utensils, fixtures, furniture and machinery used therein.

5 (2) If upon inspection there is found any violation of any of the provisions of KRS
6 217.280 to 217.390, or if the preparation, manufacture, packing, storage, sale,
7 distribution or transportation of such food is being conducted in a manner
8 detrimental to the health of the employees or to the character or quality of the food,
9 the officer or inspector making the inspection shall report the conditions and
10 violations to the chief pure food official, or to the secretary for health and family
11 services, or to the chief local health officer, as the case may be.

12 (3) The officer to whom the report is made shall thereupon issue a written order to the
13 person responsible for the violation or condition to abate the condition or violation
14 or to make the changes or improvements necessary to abate them, within a
15 reasonable time as fixed in the order. Notice of the order may be served by
16 delivering a copy to the person, or by sending a copy by certified mail, return receipt
17 requested in which case the post office receipt shall be prima facie evidence that the
18 notice was received. The person shall have the right to appear in person or by
19 attorney before the officer issuing the notice or the person appointed by him for that
20 purpose, within the time limited in the order, and shall be given an opportunity to be
21 heard and to show why the order or instructions should not be obeyed. The hearing
22 shall be under rules and regulations prescribed by the secretary for health and
23 family services. If after the hearing it appears that the provisions of KRS 217.280 to
24 217.390 have not been violated, the order shall be rescinded. If it appears that the
25 provisions of KRS 217.280 to 217.390 are being violated, and that the person
26 notified is responsible therefor, the previous order shall be confirmed or amended,
27 as the facts warrant, and shall thereupon be final, but such additional time as is

necessary may be granted within which to comply with the final order. If the person is not present or represented when the final order is made, notice thereof shall be given as above provided. If the person fails to comply with the first order within the time prescribed, when no hearing is demanded, or fails to comply with the final order within the time specified, the facts shall be certified to the Commonwealth's, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed against the person for the applicable fines and penalties, and for abatement of the nuisance. The proceedings prescribed in this section for abatement of the nuisance shall not relieve the violator from prosecution in the first instance for every violation, nor from the penalties prescribed for such violation.

Section 517. KRS 217.544 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant, or as a functioning agent in a spray adjuvant;
- (2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;
- (3) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;
- (4) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid treatment;
- (5) "Board" means the Pesticide Advisory Board;
- (6) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;
- (7) "Desiccant" means any substance or mixture of substances intended to artificially

- 1 accelerate the drying of plant tissue;
- 2 (8) "Device" means any instrument or contrivance other than a firearm which is
3 intended for trapping, destroying, repelling, or mitigating any pest or any other form
4 of plant or animal life other than man and other bacteria, virus, or other
5 microorganisms on or in living man or other living animals; but not including
6 equipment used for the application of pesticides when sold separately therefrom;
- 7 (9) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for
8 shipment, or receive and, having received, deliver or offer to deliver pesticides in
9 this state;
- 10 (10) "Environment" includes water, air, land, and all plants and man and other animals
11 living therein and the interrelationships which exist among these;
- 12 (11) "EPA" means the United States Environmental Protection Agency;
- 13 (12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as
14 amended;
- 15 (13) "Fungi" means all nonchlorophyll-bearing thallophytes; that is, all nonchlorophyll-
16 bearing plants of a lower order than mosses and liverworts, as for example, rusts,
17 smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living
18 man or other living animals, and except those in or on processed food, beverages, or
19 pharmaceuticals;
- 20 (14) "Highly toxic pesticide" means any pesticide determined to be highly toxic under
21 the authority of sec. 25(c)(2) of FIFRA or by the department under this chapter;
- 22 (15) "Imminent hazard" means a situation which exists when the continued use of a
23 pesticide would likely result in unreasonable adverse effects on the environment or
24 will involve unreasonable hazard to the survival of a species declared endangered
25 by the secretary of the United States Department of Interior under Pub. L. 91-135 of
26 the United States Congress;
- 27 (16) "Inert ingredient" means an ingredient which is not an active ingredient;

1 (17) "Ingredient statement" means a statement of the name and percentage of each active
2 ingredient together with the total percentage of the inert ingredients in the pesticide
3 and, when the pesticide contains arsenic in any form, a statement of the percentage
4 of total and water-soluble arsenic, each stated as elemental arsenic;

5 (18) "Insect" means any of the numerous small invertebrate animals generally having the
6 body more or less obviously segmented, for the most part belonging to the class
7 insecta, comprising six (6) legged, usually winged forms, as for example, beetles,
8 bugs, bees, flies, and to other allied classes of arthropods whose members are
9 wingless and usually have more than six (6) legs, as, for example, spiders, mites,
10 ticks, centipedes, and wood lice, also nematodes and other invertebrates which are
11 destructive, constitute a liability, and may be classed as pests;

12 (19) "Label" means the written, printed, or graphic matter on, or attached to, the
13 pesticide or device, or to any of its containers or wrappers;

14 (20) "Labeling" means the label and other written, printed, or graphic matter:

15 (a) On the pesticide or device, or any of its containers or wrappers;

16 (b) Accompanying the pesticide or device at any time or referring to it in any
17 other media used to disseminate information to the public; and

18 (c) To which reference is made on the label or in the literature accompanying the
19 pesticide or device, except when accurate nonmisleading reference is made to
20 current official publications of the United States Environmental Protection
21 Agency, the Departments of Agriculture and Interior, the Department of
22 Health, Education and Welfare, and other similar federal institutions, the
23 College of Agriculture, University of Kentucky, Kentucky Agricultural
24 Experiment Station, Cabinet for Health and Family Services, Natural
25 Resources and Environmental Protection Cabinet, or other agencies of this
26 state or other states when such agencies are authorized by law to conduct
27 research in the field of pesticides;

1 (21) "Land" means all land and water areas, including air space and all plants, animals,
2 structures, buildings, contrivances, and machinery appurtenant thereto, or situated
3 thereon, fixed or mobile, including any used for transportation;

4 (22) "Misbranded" means a pesticide is misbranded if:

5 (a) Its labeling bears any statement, design, or graphic representation relative
6 thereto or to its ingredients which is false or misleading in any particular;

7 (b) It is an imitation of or is distributed under the name of another pesticide;

8 (c) The labeling accompanying it does not contain directions for use which are
9 necessary for effecting the purpose for which the product is intended and, if
10 complied with, together with any requirements imposed under section 3(d) of
11 FIFRA are adequate to protect health and the environment;

12 (d) The labeling does not contain a statement of the use classification under which
13 the product is registered by EPA;

14 (e) The label does not contain a warning or caution statement which may be
15 necessary and if complied with, together with any requirements imposed
16 under section 3(d) of FIFRA, is adequate to protect health and the
17 environment;

18 (f) The label does not bear an ingredient statement on that part of the immediate
19 container, and on the outside container or wrapper, if there be one, through
20 which the ingredient statement on the immediate container cannot be clearly
21 read, of the retail package which is presented or displayed under customary
22 conditions of the purchase; provided, that the ingredient statement may appear
23 prominently on another part of the container pursuant to section 2(q) 2(A) (i)
24 (ii) of FIFRA if the size and form of the container makes it impractical to
25 place it on that part of the retail package which is presented or displayed under
26 customary conditions of purchase;

27 (g) Any word, statement, or other information required by KRS 217.542 to

- 1 217.630 or FIFRA to appear on the label or labeling is not prominently placed
2 thereon with such conspicuousness, as compared to other words, statements,
3 designs, or graphic matter in the labeling, and in such terms as to render it
4 likely to be read and understood by the ordinary individual under customary
5 conditions of purchase and use;
- 6 (h) The label does not bear the name, brand, or trademark under which the
7 pesticide is distributed;
- 8 (i) The label does not bear the net weight or measure of the content;
- 9 (j) The label does not bear the name and address of the manufacturer, registrant,
10 or person for whom manufactured; and
- 11 (k) The label does not bear the EPA registration number assigned to each
12 establishment in which the product is produced and the EPA number assigned
13 to the pesticide, if required by regulation under FIFRA;
- 14 (23) "Nematode" means invertebrate animals of the phylum nemathelminthes and class
15 nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like
16 bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may
17 also be called nemas or eelworms;
- 18 (24) "Person" means any individual, partnership, association, or any organized group of
19 persons whether incorporated or not;
- 20 (25) "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, and any other
21 form of plant or animal life, or virus, bacteria, or other microorganism, except
22 viruses, bacteria, or other microorganisms on or in living man or other living
23 animals, which is normally considered to be a pest, or which the department may
24 declare to be a pest;
- 25 (26) "Pesticide" means any substance or mixture of substances intended to prevent,
26 destroy, control, repel, attract, or mitigate any pest; any substance or mixture of
27 substances intended to be used as a plant regulator, defoliant, or desiccant; and any

- 1 substance or mixture of substances intended to be used as a spray adjuvant;
- 2 (27) "Plant regulator" means any substance or mixture of substances, intended through
3 physiological actions, to accelerate or retard the rate of growth or maturation, or to
4 otherwise alter the behavior of plants, but shall not include substances insofar as
5 they are intended to be used as plant nutrients, trace elements, nutritional chemicals,
6 plant inoculants, or soil amendments;
- 7 (28) "Protect health and the environment" means protection against any unreasonable
8 adverse effects on the environment;
- 9 (29) "Registrant" means a person who has registered any pesticide pursuant to the
10 provisions of KRS 217.542 to 217.630;
- 11 (30) "Restricted-use pesticide" means any pesticide classified for restricted use by the
12 administrator, EPA, or by regulation of the department;
- 13 (31) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder,
14 adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent
15 intended to be used with any other pesticide as an aid to the application or to the
16 effect thereof, and which is in a package or container separate from that of the other
17 pesticide with which it is to be used;
- 18 (32) "Unreasonable adverse effects on the environment" means any unreasonable risk to
19 man or the environment, taking into account the economic, social, and
20 environmental costs and benefits of the use of any pesticide;
- 21 (33) "Weed" means any plant which grows where not wanted; and
- 22 (34) "Wildlife" means all living things that are neither human, domesticated, nor as
23 defined in KRS 217.542 to 217.630, pests, including but not limited to mammals,
24 birds, and aquatic life.

25 Section 518. KRS 217.660 is amended to read as follows:

26 As used in KRS 217.650 to 217.710 unless the context indicates otherwise:

- 27 (1) "Secretary" means the secretary for health and family services;

- 1 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 2 (3) "Person" includes any individual, partnership, corporation, firm, or association;
- 3 (4) "Hazardous substance" means any substance or mixture of substances which is:
- 4 (a) "Toxic" and has the inherent capacity to produce bodily injury to man through
- 5 ingestion, inhalation, or absorption through any body surface, including toxic
- 6 substances which are poisonous;
- 7 (b) "Corrosive" on contact with living tissue causing substantial destruction of
- 8 tissue by chemical action, but does not refer to action on inanimate surfaces;
- 9 (c) "Irritant" and not corrosive within the meaning of paragraph (b), which on
- 10 immediate, prolonged, or repeated contact with normal living tissue will
- 11 induce a local inflammatory reaction;
- 12 (d) "Strong sensitizer" and will cause on normal living tissue through an allergic
- 13 or photodynamic process a hypersensitivity which becomes evident on
- 14 reapplication of the same substance and which is designated as such by the
- 15 secretary;
- 16 (e) "Flammable" with a flashpoint of eighty (80) degrees Fahrenheit or below;
- 17 (f) "Radioactive" as a result of disintegration of unstable atomic nuclei and emits
- 18 energy;
- 19 (g) Capable of generating pressure through decomposition, heat, or other means;
- 20 (h) Capable of causing substantial personal injury or illness during any customary
- 21 or reasonably anticipated handling or use; and
- 22 (5) "Label" means a display of written, printed, or graphic matter upon the immediate
- 23 container of any substance, or that is easily legible through the outside container or
- 24 wrapper.
- 25 Section 519. KRS 217.801 is amended to read as follows:
- 26 (1) Paint manufactured after July 1, 1972, containing more than one-half of one percent
- 27 (.5%) lead by weight of the nonvolatile content shall not be sold, or used on any

1 toys, children's furniture, interior surface of any dwelling, or any other surface easily
2 accessible to children under the age of seven (7) years. Such paints shall not be
3 manufactured, sold, or used for any other purpose which would ultimately result in
4 exposure to children under the age of seven (7) years unless proper application and
5 documentation is made to the Cabinet for Health and Family Services and the
6 cabinet determines that no health hazard or danger to children exists from the
7 intended use.

8 (2) All paints manufactured in this state after July 1, 1972, which will be used in this
9 state will be clearly labeled as to use and hazard when containing more than one-
10 half of one percent (.5%) lead by weight of the total nonvolatile content.

11 (3) The above provisions of subsections (1) and (2) of this section shall apply to all
12 paints containing more than six one-hundredths of one percent (.06%) lead by
13 weight of the total nonvolatile content after January 1, 1974.

14 Section 520. KRS 217.809 is amended to read as follows:

15 No person shall operate a vending machine company without having first obtained a
16 permit to operate from the Cabinet for Health and Family Services as provided in the
17 regulations of the Cabinet for Health and Family Services. All such permits shall expire
18 on June 30 following the date of issue. The Cabinet for Health and Family Services shall
19 adopt regulations relating to vending machines. KRS 217.808 to 217.812 do not apply to
20 blind persons who operate vending machines as part of a program established by federal
21 or state law.

22 Section 521. KRS 217.812 is amended to read as follows:

23 All fees collected by the Cabinet for Health and Family Services under the provisions of
24 KRS 217.808 to 217.812 shall be paid into the State Treasury and credited to a trust and
25 agency fund to be used by the cabinet in defraying the costs and expenses of the cabinet
26 in the administration of KRS 217.808 to 217.812. Such funds may be expended for
27 training of state and local sanitation personnel. The balance of this fund shall revert to the

1 general fund of the Commonwealth at the end of each biennium.

2 Section 522. KRS 217.950 is amended to read as follows:

3 (1) Amygdalin (laetrile) may be manufactured in this state subject to licensing and
4 regulation by the Cabinet for Health and Family Services. The secretary of the
5 cabinet shall adopt regulations which prescribe minimum standards for
6 manufacturers in preparing, compounding, processing, and packaging the substance.
7 The secretary shall establish standards of purity and shall make periodic tests and
8 inspections of both the facilities for manufacture and samples of the substance to
9 ascertain the purity, quality, and identity of the substance and to determine that the
10 substance meets the standards so established.

11 (2) The Cabinet for Health and Family Services shall make no rule or regulation which
12 would prohibit the use of amygdalin (laetrile) in any hospital, ambulatory outpatient
13 surgical center, or health-care facility licensed by it.

14 Section 523. KRS 217.993 is amended to read as follows:

15 (1) Any person violating any provisions of KRS 217.650 to 217.710 shall be guilty of a
16 violation. Each day of violation shall constitute a separate offense.

17 (2) Any person violating any provisions of KRS 217.900(2) shall upon conviction be
18 guilty of a Class B misdemeanor.

19 (3) Any person found guilty of inhaling a volatile substance in violation of KRS
20 217.900(2) may be ordered to a facility designated by the secretary of the Cabinet
21 for Health and Family Services, where a program of education, treatment, and
22 rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The
23 person ordered to the facility shall present himself for registration and initiation of a
24 treatment program within five (5) days of the date of sentencing. If, without good
25 cause, the person fails to appear at the designated facility within the specified time,
26 or if, any time during the program of treatment prescribed, the authorized clinical
27 director of the facility finds that the person is unwilling to participate in his

1 treatment and rehabilitation, the director shall notify the sentencing court. Upon
2 receipt of notification, the court shall cause the person to be brought before it and
3 may continue the order of treatment or may order the person subject to the fine or
4 imprisonment, or both, for a Class B misdemeanor. Upon discharge of the person
5 from the facility by the clinical director or his designee prior to the expiration of the
6 ninety (90) day period or upon satisfactory completion of ninety (90) days of
7 treatment, the person shall be deemed finally discharged from sentence. The clinical
8 director or his designee shall notify the sentencing court of the date of such
9 discharge from the facility.

10 (4) The secretary of the Cabinet for Health and Family Services or his designee shall
11 inform each court of the identity and location of the facility to which a person may
12 be ordered under this section.

13 (5) The sentencing court shall immediately notify the designated facility of the sentence
14 and its effective date.

15 (6) Responsibility for payment for treatment services rendered to persons pursuant to
16 this section shall be as under the statutes pertaining to payment by patients and
17 others for services rendered by the Cabinet for Health and Family Services unless
18 the facility shall arrange otherwise.

19 (7) None of the provisions of this section shall be deemed to preclude the court from
20 exercising its usual discretion with regard to ordering probation or conditional
21 discharge.

22 (8) Any person violating any provision of KRS 217.900(3) shall upon conviction be
23 guilty of a Class D felony.

24 Section 524. KRS 217C.030 is amended to read as follows:

25 As used in this chapter:

26 (1) "Secretary" means the secretary of the Cabinet for Health and Family Services.

27 (2) "Cabinet" means the Cabinet for Health and Family Services.

1 Section 525. KRS 217C.070 is amended to read as follows:

2 (1) The secretary for health and family services shall appoint a grade A milk advisory
3 committee composed of eight (8) appointive members. Three (3) members shall be
4 processors, or representatives thereof; three (3) members shall be producers, or
5 representatives thereof; and two (2) members shall be citizens at large, as
6 representatives of consumers.

7 (2) The secretary for health and family services shall appoint a milk-for-manufacturing
8 advisory committee composed of eight (8) appointive members. Four (4) members
9 shall be processors, or representatives thereof; two (2) members shall be producers,
10 or representatives thereof; and two (2) members shall be citizens at large, as
11 representatives of consumers.

12 (3) The secretary for health and family services or his designated representative shall
13 be an ex officio member and secretary of each committee. The appointments to each
14 committee shall be made for a term of four (4) years, or until their successors are
15 appointed and qualify, except that the terms of office of the members first appointed
16 shall be as follows: two (2) members shall be appointed for one (1) year, two (2)
17 members shall be appointed for two (2) years, two (2) members shall be appointed
18 for three (3) years and two (2) members shall be appointed for four (4) years and the
19 respective terms of the first members shall be designated by the secretary for health
20 and family services at the time of their appointment. Such members shall serve
21 without compensation but may be reimbursed for necessary traveling expenses.
22 Procedures for selection of advisory nominees shall be in accordance with the
23 regulations of the secretary.

24 Section 526. KRS 217C.990 is amended to read as follows:

25 Any person who violates any provision of this chapter, or any rule or regulation adopted
26 hereunder, or who fails to comply with an order of the Cabinet for Health and Family
27 Services issued pursuant thereto, shall be fined not less than one hundred dollars (\$100)

1 nor more than five hundred dollars (\$500). Each day of violation or noncompliance shall
2 constitute a separate offense.

3 Section 527. KRS 218A.010 is amended to read as follows:

4 As used in this chapter:

5 (1) "Administer" means the direct application of a controlled substance, whether by
6 injection, inhalation, ingestion, or any other means, to the body of a patient or
7 research subject by:

8 (a) A practitioner or by his authorized agent under his immediate supervision and
9 pursuant to his order; or

10 (b) The patient or research subject at the direction and in the presence of the
11 practitioner.

12 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
13 pharmacologically related to testosterone that promotes muscle growth and includes
14 those substances listed in KRS 218A.090(5) but does not include estrogens,
15 progestins, and antisteroids.

16 (3) "Cabinet" means the Cabinet for Health and Family Services.

17 (4) "Controlled substance" means methamphetamine, or a drug, substance, or
18 immediate precursor in Schedules I through V and includes a controlled substance
19 analogue.

20 (5) (a) "Controlled substance analogue", except as provided in subparagraph (b),
21 means a substance:

22 1. The chemical structure of which is substantially similar to the structure
23 of a controlled substance in Schedule I or II; and

24 2. Which has a stimulant, depressant, or hallucinogenic effect on the
25 central nervous system that is substantially similar to or greater than the
26 stimulant, depressant, or hallucinogenic effect on the central nervous
27 system of a controlled substance in Schedule I or II; or

- 1 3. With respect to a particular person, which such person represents or
2 intends to have a stimulant, depressant, or hallucinogenic effect on the
3 central nervous system that is substantially similar to or greater than the
4 stimulant, depressant, or hallucinogenic effect on the central nervous
5 system of a controlled substance in Schedule I or II.
- 6 (b) Such term does not include:
- 7 1. Any substance for which there is an approved new drug application;
- 8 2. With respect to a particular person, any substance if an exemption is in
9 effect for investigational use for that person pursuant to federal law to
10 the extent conduct with respect to such substance is pursuant to such
11 exemption; or
- 12 3. Any substance to the extent not intended for human consumption before
13 the exemption described in subparagraph 2. of this paragraph takes
14 effect with respect to that substance.
- 15 (6) "Counterfeit substance" means a controlled substance which, or the container or
16 labeling of which, without authorization, bears the trademark, trade name, or other
17 identifying mark, imprint, number, or device, or any likeness thereof, of a
18 manufacturer, distributor, or dispenser other than the person who in fact
19 manufactured, distributed, or dispensed the substance.
- 20 (7) "Dispense" means to deliver a controlled substance to an ultimate user or research
21 subject by or pursuant to the lawful order of a practitioner, including the packaging,
22 labeling, or compounding necessary to prepare the substance for that delivery.
- 23 (8) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V
24 controlled substance to or for the use of an ultimate user.
- 25 (9) "Distribute" means to deliver other than by administering or dispensing a controlled
26 substance.
- 27 (10) "Drug" means:

- 1 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
2 official Homeopathic Pharmacopoeia of the United States, or official National
3 Formulary, or any supplement to any of them;
4 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
5 prevention of disease in man or animals;
6 (c) Substances (other than food) intended to affect the structure or any function of
7 the body of man or animals; and
8 (d) Substances intended for use as a component of any article specified in this
9 subsection.

10 It does not include devices or their components, parts, or accessories.

11 (11) "Immediate precursor" means a substance which is the principal compound
12 commonly used or produced primarily for use, and which is an immediate chemical
13 intermediary used or likely to be used in the manufacture of a controlled substance,
14 the control of which is necessary to prevent, curtail, or limit manufacture.

15 (12) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and
16 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical,
17 positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer"
18 means the optical or geometric isomer.

19 (13) "Manufacture", except as provided in KRS 218A.1431, means the production,
20 preparation, propagation, compounding, conversion, or processing of a controlled
21 substance, either directly or indirectly by extraction from substances of natural
22 origin or independently by means of chemical synthesis, or by a combination of
23 extraction and chemical synthesis, and includes any packaging or repackaging of the
24 substance or labeling or relabeling of its container except that this term does not
25 include activities:

- 26 (a) By a practitioner as an incident to his administering or dispensing of a
27 controlled substance in the course of his professional practice; or

1 (b) By a practitioner, or by his authorized agent under his supervision, for the
2 purpose of, or as an incident to, research, teaching, or chemical analysis and
3 not for sale; or

4 (c) By a pharmacist as an incident to his dispensing of a controlled substance in
5 the course of his professional practice.

6 (14) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the
7 seeds thereof; the resin extracted from any part of the plant; and every compound,
8 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
9 or any compound, mixture, or preparation which contains any quantity of these
10 substances.

11 (15) "Narcotic drug" means any of the following, whether produced directly or indirectly
12 by extraction from substances of vegetable origin, or independently by means of
13 chemical synthesis, or by a combination of extraction and chemical synthesis:

14 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
15 opium or opiate;

16 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
17 chemically equivalent or identical with any of the substances referred to in
18 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
19 of opium;

20 (c) Opium poppy and poppy straw;

21 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
22 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
23 removed;

24 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

25 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

26 (g) Any compound, mixture, or preparation which contains any quantity of any of
27 the substances referred to in paragraphs (a) to (f) of this subsection.

- 1 (16) "Opiate" means any substance having an addiction-forming or addiction-sustaining
2 liability similar to morphine or being capable of conversion into a drug having
3 addiction-forming or addiction-sustaining liability. It does not include, unless
4 specifically designated as controlled under KRS 218A.030, the dextrorotatory
5 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
6 include its racemic and levorotatory forms.
- 7 (17) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
8 seeds.
- 9 (18) "Person" means individual, corporation, government or governmental subdivision
10 or agency, business trust, estate, trust, partnership or association, or any other legal
11 entity.
- 12 (19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 13 (20) "Pharmacist" means a natural person licensed by this state to engage in the practice
14 of the profession of pharmacy.
- 15 (21) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
16 investigator, optometrist as authorized in KRS 320.240, or other person licensed,
17 registered, or otherwise permitted to distribute, dispense, conduct research with
18 respect to, or to administer a controlled substance in the course of professional
19 practice or research in this state. "Practitioner" also includes a physician, dentist,
20 podiatrist, or veterinarian who is a resident of and actively practicing in a state other
21 than Kentucky and who is licensed and has prescriptive authority for controlled
22 substances under the professional licensing laws of another state, unless the person's
23 Kentucky license has been revoked, suspended, restricted, or probated, in which
24 case the terms of the Kentucky license shall prevail.
- 25 (22) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
26 combination or mixture of drugs or medicines, or proprietary preparation, signed or
27 given or authorized by a medical, dental, chiropody, veterinarian, or optometric

1 practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or
2 prevention of disease in man or other animals.

3 (23) "Prescription blank," with reference to a controlled substance, means a document
4 that meets the requirements of KRS 218A.204 and 217.216.

5 (24) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
6 of a controlled substance.

7 (25) "Second or subsequent offense" means that for the purposes of this chapter an
8 offense is considered as a second or subsequent offense, if, prior to his conviction of
9 the offense, the offender has at any time been convicted under this chapter, or under
10 any statute of the United States, or of any state relating to substances classified as
11 controlled substances or counterfeit substances, except that a prior conviction for a
12 nontrafficking offense shall be treated as a prior offense only when the subsequent
13 offense is a nontrafficking offense. For the purposes of this section, a conviction
14 voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under
15 this chapter.

16 (26) "Sell" means to dispose of a controlled substance to another person for
17 consideration or in furtherance of commercial distribution.

18 (27) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
19 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
20 substances, derivatives, and their isomers with similar chemical structure and
21 pharmacological activity such as the following:

- 22 1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 23 2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
- 24 3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

25 (28) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
26 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
27 or sell a controlled substance.

1 (29) "Transfer" means to dispose of a controlled substance to another person without
2 consideration and not in furtherance of commercial distribution.

3 (30) "Ultimate user" means a person who lawfully possesses a controlled substance for
4 his own use or for the use of a member of his household or for administering to an
5 animal owned by him or by a member of his household.

6 Section 528. KRS 218A.020 is amended to read as follows:

7 (1) The Cabinet for Health **and Family** Services shall administer this chapter and may
8 by regulation add substances to or delete or reschedule all substances enumerated in
9 the schedules set forth in this chapter. In making a determination regarding a
10 substance, the Cabinet for Health **and Family** Services may consider the following:

- 11 (a) The actual or relative potential for abuse;
- 12 (b) The scientific evidence of its pharmacological effect, if known;
- 13 (c) The state of current scientific knowledge regarding the substance;
- 14 (d) The history and current pattern of abuse;
- 15 (e) The scope, duration, and significance of abuse;
- 16 (f) The risk to the public health;
- 17 (g) The potential of the substance to produce psychic or physiological dependence
18 liability; and
- 19 (h) Whether the substance is an immediate precursor of a substance already
20 controlled under this chapter.

21 (2) After considering the factors enumerated in subsection (1) the Cabinet for Health
22 **and Family** Services may adopt a regulation controlling the substance if it finds the
23 substance has a potential for abuse.

24 (3) If any substance is designated, rescheduled, or deleted as a controlled substance
25 under federal law and notice thereof is given to the Cabinet for Health **and Family**
26 Services, the Cabinet for Health **and Family** Services may similarly control the
27 substance under this chapter by regulation.

- 1 (4) The Cabinet for Health and Family Services shall exclude any nonnarcotic
 2 substance from a schedule if the substance may be lawfully sold over the counter
 3 without prescription under the provisions of the Federal Food, Drug and Cosmetic
 4 Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of
 5 1970, or the Kentucky Revised Statutes (for the purposes of this section the
 6 Kentucky Revised Statutes shall not include any regulations issued thereunder).

7 Section 529. KRS 218A.040 is amended to read as follows:

8 The Cabinet for Health and Family Services shall place a substance in Schedule I if it
 9 finds that the substance:

- 10 (1) Has high potential for abuse; and
 11 (2) Has no accepted medical use in treatment in the United States or lacks accepted
 12 safety for use in treatment under medical supervision.

13 Section 530. KRS 218A.050 is amended to read as follows:

14 Unless otherwise rescheduled by regulation of the Cabinet for Health and Family
 15 Services, the controlled substances listed in this section are included in Schedule I:

- 16 (1) Any material, compound, mixture, or preparation which contains any quantity of the
 17 following opiates, including their isomers, esters, ethers, salts, and salts of isomers,
 18 esters, and ethers, unless specifically excepted, whenever the existence of these
 19 isomers, esters, ethers, or salts is possible within the specific chemical designation:
 20 Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine;
 21 Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol;
 22 Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide;
 23 Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene;
 24 Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene;
 25 Etoxadidine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide;
 26 Levophenacymorphan; Morpheridine; Noracymethadol; Norlevorphanol;
 27 Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan;

1 Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide;
2 Trimeperidine.

3 (2) Any material, compound, mixture, or preparation which contains any quantity of the
4 following opium derivatives, including their salts, isomers, and salts of isomers,
5 unless specifically excepted, whenever the existence of these salts, isomers, or salts
6 of isomers is possible within the specific chemical designation: Acetorphine;
7 Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-
8 Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin;
9 Hydromorphenol; Methyldesorphine; Methyldihydromorphine; Morphine
10 methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine;
11 Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

12 (3) Any material, compound, mixture, or preparation which contains any quantity of the
13 following hallucinogenic substances, their salts, isomers, or salts of isomers, unless
14 specifically excepted, whenever the existence of these salts, isomers, and salts of
15 isomers is possible within the specific chemical designation: 3, 4-
16 methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4,
17 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-
18 methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide;
19 Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl
20 benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2
21 Methylamino-1-phenylpropan-1-one (including, but not limited to, Methcathinone,
22 Cat, and Ephedrone).

23 (4) Any material, compound, mixture, or preparation which contains any quantity of the
24 following substance having a depressant effect on the central nervous system,
25 including its salts, isomers, and salts of isomers, unless specifically excepted,
26 whenever the existence of these salts, isomers, or salts of isomers is possible within
27 the specific chemical designation: gamma hydroxybutyric acid.

1 Section 531. KRS 218A.060 is amended to read as follows:

2 The Cabinet for Health and Family Services shall place a substance in Schedule II if it
3 finds that:

- 4 (1) The substance has high potential for abuse;
- 5 (2) The substance has currently accepted medical use in treatment in the United States,
6 or currently accepted medical use with severe restrictions; and
- 7 (3) The abuse of the substance may lead to severe psychic or physical dependence.

8 Section 532. KRS 218A.070 is amended to read as follows:

9 Unless otherwise rescheduled by regulation of the Cabinet for Health and Family
10 Services, the controlled substances listed in this section are included in Schedule II:

11 (1) Any material, compound, mixture, or preparation which contains any quantity of the
12 following substances, except those narcotic drugs listed in other schedules, whether
13 produced directly or indirectly by extraction from substances of vegetable origin, or
14 independently by means of chemical synthesis, or by combination of extraction and
15 chemical synthesis:

16 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
17 opium or opiate;

18 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
19 chemically equivalent or identical with any of the substances referred to in
20 paragraph (a), but not including the isoquinoline alkaloids of opium;

21 (c) Opium poppy and poppy straw;

22 (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves,
23 including cocaine and ecgonine and their salts, isomers, derivatives and salts
24 of isomers and derivatives, and any salt, compound, isomer, derivative, or
25 preparation thereof which is chemically equivalent or identical with any of
26 these substances, but not including decocainized coca leaves or extractions of
27 coca leaves which do not contain cocaine or ecgonine.

1 (2) Any material, compound, mixture, or preparation which contains any quantity of the
 2 following opiates, including their isomers, esters, ethers, salts, and salts of isomers,
 3 whenever the existence of these isomers, esters, ethers, and salts is possible within
 4 the specific chemical designation: Alphaprodine; Anileridine; Bezitramide;
 5 Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan;
 6 Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-
 7 dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-
 8 morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-
 9 Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine, Pethidine-Intermediate-B,
 10 ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C, 1-methyl-4-
 11 phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan;
 12 Racemorphan.

13 (3) Any material, compound, mixture, or preparation which contains any quantity of the
 14 following substances having a potential for abuse associated with a stimulant effect
 15 on the central nervous system:

- 16 (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 17 (b) Phenmetrazine and its salts;
- 18 (c) Methylphenidate.

19 Section 533. KRS 218A.080 is amended to read as follows:

20 The Cabinet for Health and Family Services shall place a substance in Schedule III if it
 21 finds that:

- 22 (1) The substance has a potential for abuse less than the substances listed in Schedules I
 23 and II;
- 24 (2) The substance has currently accepted medical use in treatment in the United States;
 25 and
- 26 (3) Abuse of the substance may lead to moderate or low physical dependence or high
 27 psychological dependence.

1 Section 534. KRS 218A.090 is amended to read as follows:

2 Unless otherwise rescheduled by regulation of the Cabinet for Health and Family
3 Services, the controlled substances listed in this section are included in Schedule III:

4 (1) Unless listed in another schedule, any material, compound, mixture, or preparation
5 which contains any quantity of the following substances having a potential for abuse
6 associated with a depressant effect on the central nervous system: Any substance
7 which contains any quantity of a derivative of barbituric acid, or any salt of a
8 derivative of barbituric acid; chlorhexadol; glutethimide; lysergic acid; lysergic acid
9 amide; methypylon; sulfondiethylmethane; sulfonethylmethane; sulfonmethane.

10 (2) Nalorphine.

11 (3) Pentazocine (parenteral or injectable form only).

12 (4) Any material, compound, mixture, or preparation containing limited quantities of
13 any of the following narcotic drugs, or any salts thereof:

14 (a) Not more than one and four-fifths (1.8) grams of codeine, or any of its salts,
15 per one hundred (100) milliliters or not more than ninety (90) milligrams per
16 dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of
17 opium;

18 (b) Not more than one and four-fifths (1.8) grams of codeine, or any of its salts,
19 per one hundred (100) milliliters or not more than ninety (90) milligrams per
20 dosage unit, with one (1) or more active nonnarcotic ingredients in recognized
21 therapeutic amounts;

22 (c) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
23 its salts, per one hundred (100) milliliters or not more than fifteen (15)
24 milligrams per dosage unit, with a fourfold or greater quantity of an
25 isoquinoline alkaloid of opium;

26 (d) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
27 its salts, per one hundred (100) milliliters or not more than fifteen (15)

- 1 milligrams per dosage unit, with one (1) or more active, nonnarcotic
2 ingredients in recognized therapeutic amounts;
- 3 (e) Not more than one and four-fifths (1.8) grams of dihydrocodeine, or any of its
4 salts, per one hundred (100) milliliters or not more than ninety (90) milligrams
5 per dosage unit, with one (1) or more active, nonnarcotic ingredients in
6 recognized therapeutic amounts;
- 7 (f) Not more than three hundred (300) milligrams of ethylmorphine, or any of its
8 salts per one hundred (100) milliliters or not more than fifteen (15) milligrams
9 per dosage unit, with one (1) or more ingredients in recognized therapeutic
10 amounts;
- 11 (g) Not more than five hundred (500) milligrams of opium per one hundred (100)
12 milliliters or per one hundred (100) grams, or not more than twenty-five (25)
13 milligrams per dosage unit, with one (1) or more active, nonnarcotic
14 ingredients in recognized therapeutic amounts;
- 15 (h) Not more than fifty (50) milligrams of morphine, or any of its salts, per one
16 hundred (100) milliliters or per one hundred (100) grams with one (1) or more
17 active, nonnarcotic ingredients in recognized therapeutic amounts.
- 18 (i) The Cabinet for Health and Family Services may except by regulation any
19 compound, mixture, or preparation containing any stimulant or depressant
20 substance listed in subsection (1) from the application of all or any part of this
21 chapter if the compound, mixture, or preparation contains one (1) or more
22 active medicinal ingredients not having a stimulant or depressant effect on the
23 central nervous system, and if the admixtures are included therein in
24 combinations, quantity, proportion, or concentration that vitiate the potential
25 for abuse of the substances which have a stimulant or depressant effect on the
26 central nervous system.
- 27 (5) Any material, compound, mixture, or preparation containing any quantity of any of

the following anabolic steroid substances, or any isomer, ester, salt, or derivative thereof:

- (a) Boldenone;
- (b) Clostebol;
- (c) Dehydrochlormethyltestosterone;
- (d) Drostanolone;
- (e) Ethylestrenol;
- (f) Fluoxymesterone;
- (g) Formebolone;
- (h) Mesterolone;
- (i) Methandienone;
- (j) Methandriol;
- (k) Methenolone;
- (l) Methyltestosterone;
- (m) Mibolerone;
- (n) Nandrolone;
- (o) Norethandrolone;
- (p) Oxandrolone;
- (q) Oxymesterone;
- (r) Oxymetholone;
- (s) Stanolone;
- (t) Stanozolol;
- (u) Testolactone;
- (v) Testosterone; and
- (w) Trenbolone.

(6) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt,

1 or derivative thereof that is expressly intended for administration through implant to
2 livestock or other nonhuman species, and that is approved by the United States
3 Food and Drug Administration for such use.

4 Section 535. KRS 218A.100 is amended to read as follows:

5 The Cabinet for Health and Family Services shall place a substance in Schedule IV if it
6 finds that:

- 7 (1) The substance has a low potential for abuse relative to substances in Schedule III;
8 (2) The substance has currently accepted medical use in treatment in the United States;
9 and
10 (3) Abuse of the substance may lead to limited physical dependence or psychological
11 dependence relative to the substances in Schedule III.

12 Section 536. KRS 218A.110 is amended to read as follows:

13 Unless otherwise rescheduled by regulation of the Cabinet for Health and Family
14 Services, the controlled substances listed in this section are included in Schedule IV:

- 15 (1) Any material, compound, mixture, or preparation which contains any quantity of the
16 following substances having a potential for abuse associated with a depressant
17 effect on the central nervous system: chloral betaine; chloral hydrate; ethchlorvynol;
18 ethinamate; meprobamate; paraldehyde; petrichloral.
19 (2) The Cabinet for Health and Family Services may except by regulation any
20 compound, mixture, or preparation containing any depressant substance listed in
21 subsection (1) from the application of all or any part of this chapter if the
22 compound, mixture, or preparation contains one (1) or more active medicinal
23 ingredients not having a depressant effect on the central nervous system, and if the
24 admixtures are included therein in combinations, quantity, proportion, or
25 concentration that vitiate the potential for abuse of the substances which have a
26 depressant effect on the central nervous system.

27 Section 537. KRS 218A.120 is amended to read as follows:

1 The Cabinet for Health and Family Services shall place a substance in Schedule V if it
2 finds that:

3 (1) The substance has low potential for abuse relative to the controlled substances listed
4 in Schedule IV;

5 (2) The substance has currently accepted medical use in treatment in the United States;
6 and

7 (3) The substance has limited physical dependence or psychological dependence
8 liability relative to the controlled substances listed in Schedule IV.

9 Section 538. KRS 218A.130 is amended to read as follows:

10 Unless otherwise rescheduled by regulation of the Cabinet for Health and Family
11 Services the controlled substances listed in this section are included in Schedule V:

12 Any compound, mixture, or preparation containing limited quantities of any of the
13 following narcotic drugs, which also contains one (1) or more nonnarcotic active
14 medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or
15 preparation, valuable medicinal qualities other than those possessed by the narcotic drug
16 alone: Not more than two hundred (200) milligrams of codeine, or any of its salts, per one
17 hundred (100) milliliters or per one hundred (100) grams.

18 Section 539. KRS 218A.150 is amended to read as follows:

19 (1) No person shall manufacture, compound, mix, cultivate, grow, or by any other
20 process produce, or prepare controlled substances, and no person as a wholesaler
21 shall supply the same, without having first obtained a license so to do from the
22 Cabinet for Health and Family Services. The Cabinet for Health and Family
23 Services may adopt regulations and set reasonable fees relating to the issuance and
24 renewal of such licenses. All such licenses shall expire on June 30, following the
25 date of issue, unless renewed. All such fees shall be deposited in a revolving fund to
26 be used by the cabinet in carrying out the provisions of this chapter.

27 (2) No person shall manufacture any controlled substance except under the direct

1 supervision of a pharmacist.

2 Section 540. KRS 218A.160 is amended to read as follows:

3 (1) No manufacturer's or wholesaler's license shall be issued pursuant to this chapter
4 unless the applicant therefor has furnished satisfactory proof:

5 (a) That the applicant is in compliance with all applicable federal and state laws
6 and regulations relating to controlled substances and is of good moral
7 character or, if the applicant be an association or corporation that the
8 managing officers are of good moral character;

9 (b) That the applicant is equipped as to land, buildings, and security to properly
10 carry on the business described in his application.

11 (2) No license shall be granted to any person who has been convicted of a misdemeanor
12 involving any controlled substance or who has been convicted of any felony.

13 (3) The Cabinet for Health and Family Services may suspend or revoke any license for
14 cause.

15 (4) Upon appeal of any action taken under authority of this section, an administrative
16 hearing shall be conducted in accordance with KRS Chapter 13B.

17 Section 541. KRS 218A.190 is amended to read as follows:

18 (1) Nonprescription medicinal preparations that contain in one hundred (100)
19 milliliters, or as a solid or semisolid preparation, in one hundred (100) grams, not
20 more than two hundred (200) milligrams of codeine or its salts may be sold over the
21 counter subject to the following conditions:

22 (a) That the medicinal preparation shall contain in addition to the codeine in it,
23 some drug or drugs conferring upon it medicinal qualities other than those
24 possessed by the codeine alone;

25 (b) That such preparation shall be dispensed or sold in good faith as a medicine,
26 and not for the purpose of evading the provisions of this chapter;

27 (c) That such preparation shall only be sold at retail without a prescription to a

- 1 person at least eighteen (18) years of age and only by a pharmacist. An
2 employee may complete the actual cash or credit transaction or delivery;
- 3 (d) That such preparations shall not be displayed in areas of the pharmacy open to
4 the public; and
- 5 (e) That no person shall purchase and no pharmacist or practitioner shall sell to
6 the same person within a forty-eight (48) hour period more than one hundred
7 twenty (120) milliliters of an exempt codeine preparation. Any person
8 purchasing in excess of this limitation shall be deemed to be in illegal
9 possession.
- 10 (2) All wholesalers, manufacturers, and repackers shall keep a separate exempt codeine
11 registry showing the following:
- 12 (a) Date;
13 (b) Registration number of recipient;
14 (c) Name of recipient;
15 (d) Address;
16 (e) Name of preparation; and
17 (f) Quantity.
- 18 (3) All pharmacists and practitioners shall keep a separate exempt codeine registry
19 showing the following:
- 20 (a) Date;
21 (b) Name of recipient;
22 (c) Address;
23 (d) Name of preparation;
24 (e) Quantity; and
25 (f) Pharmacist's or practitioner's name.
- 26 (4) Notwithstanding any other provision of this section, the Cabinet for Health and
27 Family Services may by regulation specifically prohibit any such codeine

1 preparation from being sold over the counter due to actual or potential abuse.

2 Section 542. KRS 218A.200 is amended to read as follows:

- 3 (1) Every practitioner who is authorized to administer or professionally use controlled
4 substances, shall keep a record of substances received by him, and a record of all
5 substances administered, dispensed, or professionally used by him otherwise than
6 by prescription. Every such record shall be kept for a period of five (5) years.
- 7 (2) Manufacturers and wholesalers shall keep records of all controlled substances
8 compounded, mixed, cultivated, grown, or by any other process produced or
9 prepared, and of all controlled substances received and disposed of by them. Every
10 such record shall be kept for a period of two (2) years.
- 11 (3) Pharmacists shall keep records of all controlled substances received and disposed of
12 by them. Every such record shall be kept for a period of five (5) years.
- 13 (4) The record of controlled substances received shall in every case show the date of
14 receipt, the name and address of the person from whom received, and the kind and
15 quantity of drugs received. The record of all controlled substances sold,
16 administered, dispensed, or otherwise disposed of, shall show the date of selling,
17 administering, or dispensing, the name and address of the person to whom, or for
18 whose use, or the owner and species of animal for which the drugs were sold,
19 administered, or dispensed, and the kind and quantity.
- 20 (5) The keeping of a record under the federal controlled substances laws, containing
21 substantially the same information as is specified in subsection (4) of this section,
22 shall constitute compliance with this section.
- 23 (6) A copy of the detailed list of controlled substances lost, destroyed, or stolen shall be
24 forwarded to the Cabinet for Health and Family Services as soon as practical.
- 25 (7) (a) Every manufacturer, distributor, wholesaler, repacker, practitioner,
26 pharmacist, or other person authorized to possess controlled substances shall
27 take an inventory of all controlled substances in his possession at least every

1 two (2) years.

2 (b) A substance which is added to any schedule of controlled substances and
3 which was not previously listed in any schedule shall be initially inventoried
4 within thirty (30) days of the effective date of the statute or administrative
5 regulation which adds the substance to the provisions of this chapter.
6 Thereafter, the substance shall be included in the inventory required by
7 paragraph (a) of this subsection.

8 (8) Any person who violates any provision of this section shall be guilty of a Class A
9 misdemeanor for a first offense and a Class D felony for subsequent offenses.

10 Section 543. KRS 218A.202 is amended to read as follows:

11 (1) The Cabinet for Health and Family Services shall establish an electronic system for
12 monitoring Schedules II, III, IV, and V controlled substances that are dispensed
13 within the Commonwealth by a practitioner or pharmacist or dispensed to an
14 address within the Commonwealth by a pharmacy that has obtained a license,
15 permit, or other authorization to operate from the Kentucky Board of Pharmacy.

16 (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically
17 dedicated to the operation of the system.

18 (3) Every dispenser within the Commonwealth or any other dispenser who has obtained
19 a license, permit, or other authorization to operate from the Kentucky Board of
20 Pharmacy shall report to the Cabinet for Health and Family Services the data
21 required by this section in a timely manner as prescribed by the cabinet except that
22 reporting shall not be required for:

23 (a) A drug administered directly to a patient; or

24 (b) A drug dispensed by a practitioner at a facility licensed by the cabinet
25 provided that the quantity dispensed is limited to an amount adequate to treat
26 the patient for a maximum of forty-eight (48) hours.

27 (4) Data for each controlled substance that is dispensed shall include but not be limited

1 to the following:

- 2 (a) Patient identifier;
- 3 (b) Drug dispensed;
- 4 (c) Date of dispensing;
- 5 (d) Quantity dispensed;
- 6 (e) Prescriber; and
- 7 (f) Dispenser.

8 (5) The data shall be provided in the electronic format specified by the Cabinet for
9 Health and Family Services unless a waiver has been granted by the cabinet to an
10 individual dispenser. The cabinet shall establish acceptable error tolerance rates for
11 data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or
12 inaccurate data shall be corrected upon notification by the cabinet if the dispenser
13 exceeds these error tolerance rates.

14 (6) The Cabinet for Health and Family Services shall be authorized to provide data to:

- 15 (a) A designated representative of a board responsible for the licensure,
16 regulation, or discipline of practitioners, pharmacists, or other person who is
17 authorized to prescribe, administer, or dispense controlled substances and who
18 is involved in a bona fide specific investigation involving a designated person;
- 19 (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a
20 certified or full-time peace officer of another state, or a federal peace officer
21 whose duty is to enforce the laws of this Commonwealth, of another state, or
22 of the United States relating to drugs and who is engaged in a bona fide
23 specific investigation involving a designated person;
- 24 (c) A state-operated Medicaid program;
- 25 (d) A properly convened grand jury pursuant to a subpoena properly issued for the
26 records;
- 27 (e) A practitioner or pharmacist who requests information and certifies that the

1 requested information is for the purpose of providing medical or
2 pharmaceutical treatment to a bona fide current patient;

3 (f) In addition to the purposes authorized under paragraph (a) of this subsection,
4 the Kentucky Board of Medical Licensure, for any physician who is:

5 1. Associated in a partnership or other business entity with a physician who
6 is already under investigation by the Board of Medical Licensure for
7 improper prescribing practices;

8 2. In a designated geographic area for which a trend report indicates a
9 substantial likelihood that inappropriate prescribing may be occurring;
10 or

11 3. In a designated geographic area for which a report on another physician
12 in that area indicates a substantial likelihood that inappropriate
13 prescribing may be occurring in that area; or

14 (g) A judge or a probation or parole officer administering a diversion or probation
15 program of a criminal defendant arising out of a violation of this chapter or of
16 a criminal defendant who is documented by the court as a substance abuser
17 who is eligible to participate in a court-ordered drug diversion or probation
18 program.

19 (7) The Department for Medicaid Services may use any data or reports from the system
20 for the purpose of identifying Medicaid recipients whose usage of controlled
21 substances may be appropriately managed by a single outpatient pharmacy or
22 primary care physician.

23 (8) A person who receives data or any report of the system from the cabinet shall not
24 provide it to any other person or entity except by order of a court of competent
25 jurisdiction, except that:

26 (a) A peace officer specified in subsection (6)(b) of this section who is authorized
27 to receive data or a report may share that information with other peace officers

specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in paragraph (a) of subsection (6) of this section, or with a law enforcement officer designated in paragraph (b) of subsection (6) of this section; and

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(12) Knowing disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining

1 information under this section not relating to a bona fide specific investigation, shall
2 be a Class D felony.

3 (13) The Governor's Office for Technology, in consultation with the Cabinet for Health
4 and Family Services, shall submit an application to the United States Department
5 of Justice for a drug diversion grant to fund a pilot project to study a real-time
6 electronic monitoring system for Schedules II, III, IV, and V controlled substances.
7 The pilot project shall:

8 (a) Be conducted in two (2) rural counties that have an interactive real-time
9 electronic information system in place for monitoring patient utilization of
10 health and social services through a federally funded community access
11 program; and

12 (b) Study the use of an interactive system that includes a relational data base with
13 query capability.

14 (14) Provisions in this section that relate to data collection, disclosure, access, and
15 penalties shall apply to the pilot project authorized under subsection (13) of this
16 section.

17 (15) The Cabinet for Health and Family Services may limit the length of time that data
18 remain in the electronic system. Any data removed from the system shall be
19 archived and subject to retrieval within a reasonable time after a request from a
20 person authorized to review data under this section.

21 (16) (a) The Cabinet for Health and Family Services shall work with each board
22 responsible for the licensure, regulation, or discipline of practitioners,
23 pharmacists, or other persons who are authorized to prescribe, administer, or
24 dispense controlled substances for the development of a continuing education
25 program about the purposes and uses of the electronic system for monitoring
26 established in this section.

27 (b) The cabinet shall work with the Kentucky Bar Association for the

1 development of a continuing education program for attorneys about the
2 purposes and uses of the electronic system for monitoring established in this
3 section.

- 4 (c) The cabinet shall work with the Justice Cabinet for the development of a
5 continuing education program for law enforcement officers about the purposes
6 and users of the electronic system for monitoring established in this section.

7 Section 544. KRS 218A.204 is amended to read as follows:

8 The Cabinet for Health and Family Services shall promulgate administrative regulations
9 in accordance with KRS Chapter 13A that establish security requirements for all
10 prescriptions written by practitioners. The administrative regulations shall include a
11 procedure to obtain a waiver for prescription blanks that provide substantially equivalent
12 protection against forgery.

13 Section 545. KRS 218A.230 is amended to read as follows:

14 All controlled substances, the lawful possession of which is not established or the title to
15 which cannot be ascertained, which have come into the custody of a peace officer, shall
16 be forfeited and disposed of as follows:

17 (1) Except as otherwise provided in this section, the court having jurisdiction shall
18 order such controlled substances forfeited and destroyed. A record of the place
19 where said drugs were seized, of the kinds and quantities of drugs so destroyed, and
20 of the time, place, and manner of destruction, shall be kept.

21 (2) The court by whom the forfeiture of controlled substances has been decreed may
22 order the delivery of same to the Cabinet for Health and Family Services for
23 destruction. Practitioners, pharmacists, hospitals, and nursing homes may
24 voluntarily surrender controlled substances to the Cabinet for Health and Family
25 Services for destruction.

26 (3) The Cabinet for Health and Family Services shall keep a record of all substances
27 received and of all substances disposed of, showing the exact kinds, quantities, and

1 forms of such substances, the persons from whom received and the time, place, and
2 manner of destruction.

3 (4) Prescriptions, orders, and records, required by this chapter, and stocks of controlled
4 substances, shall be open for inspection only to federal, state, county, and municipal
5 officers, whose duty it is to enforce the laws of this state or of the United States
6 relating to controlled substances.

7 (5) No pharmacist, practitioner, manufacturer, or wholesaler or other custodian of
8 records, prescriptions, or orders required by this chapter shall refuse to permit the
9 inspection thereof by any federal, state, county or municipal officer whose duty it is
10 to enforce the laws of this state or of the United States relating to controlled
11 substances.

12 Section 546. KRS 218A.240 is amended to read as follows:

13 (1) All police officers and deputy sheriffs directly employed full-time by state, county,
14 city, or urban-county governments, the State Police, the Cabinet for Health and
15 Family Services, their officers and agents, and of all city, county, and
16 Commonwealth's attorneys, and the Attorney General, within their respective
17 jurisdictions, shall enforce all provisions of this chapter and cooperate with all
18 agencies charged with the enforcement of the laws of the United States, of this state,
19 and of all other states relating to controlled substances.

20 (2) For the purpose of enforcing the provisions of this chapter, the designated agents of
21 the Cabinet for Health and Family Services shall have the full power and authority
22 of peace officers in this state, including the power of arrest and the authority to bear
23 arms, and shall have the power and authority to administer oaths, to enter upon
24 premises at all times for the purpose of making inspections, to seize evidence, to
25 interrogate all persons, to require the production of prescriptions, of books, papers,
26 documents or other evidence, to employ special investigators, and to expend funds
27 for the purpose of obtaining evidence and to use data obtained under KRS

1 218A.202(7) in any administrative proceeding before the cabinet.

2 (3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same
3 powers of inspection and enforcement as the Cabinet for Health and Family
4 Services.

5 (4) Designated agents of the Cabinet for Health and Family Services and the Kentucky
6 Board of Pharmacy are empowered to remove from the files of a pharmacy or the
7 custodian of records for that pharmacy any controlled substance prescription or
8 other controlled substance record upon tendering a receipt. The receipt shall be
9 sufficiently detailed to accurately identify the record. A receipt for the record shall
10 be a defense to a charge of failure to maintain the record.

11 (5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any
12 law enforcement authority may maintain, in its own name, an action to restrain or
13 enjoin any violation of this chapter, or to forfeit any property subject to forfeiture
14 under KRS 218A.410, irrespective of whether the owner of the property has been
15 charged with or convicted of any offense under this chapter.

16 (a) Any civil action against any person brought pursuant to this section may be
17 instituted in the Circuit Court in any county in which the person resides, in
18 which any property owned by the person and subject to forfeiture is found, or
19 in which the person has violated any provision of this chapter.

20 (b) A final judgment rendered in favor of the Commonwealth in any criminal
21 proceeding brought under this chapter shall estop the defendant from denying
22 the essential allegations of the criminal offense in any subsequent civil
23 proceeding brought pursuant to this section.

24 (c) The prevailing party in any civil proceeding brought pursuant to this section
25 shall recover his costs, including a reasonable attorney's fee.

26 (d) Distribution of funds under this section shall be made in the same manner as
27 in KRS 218A.435, except that if the Commonwealth's attorney has not

1 initiated the forfeiture action under this section, his percentage of the funds
2 shall go to the agency initiating the forfeiture action.

3 (6) The Cabinet for Health and Family Services shall make or cause to be made
4 examinations of samples secured under the provisions of this chapter to determine
5 whether any provision has been violated.

6 (7) (a) The Cabinet for Health and Family Services shall use the data compiled in
7 the electronic system created in KRS 218A.202 for investigations, research,
8 statistical analysis, and educational purposes, and shall proactively identify
9 trends in controlled substance usage and other potential problem areas. Only
10 cabinet personnel who have undergone training for the electronic system and
11 who have been approved to use the system shall be authorized access to the
12 data and reports under this subsection. The cabinet shall notify a board
13 responsible for the licensure, regulation, or discipline of each practitioner,
14 pharmacist, or other person who is authorized to prescribe, administer, or
15 dispense controlled substances, if a report or analysis conducted under this
16 subsection indicates that further investigation about inappropriate or unlawful
17 prescribing or dispensing may be necessary by the board.

18 (b) The cabinet shall develop criteria, in collaboration with the Board of Medical
19 Licensure and the Board of Pharmacy, to be used to generate trend reports
20 from the data obtained by the system. Meetings at which the criteria are
21 developed shall be meetings, as defined in KRS 61.805, that comply with the
22 open meetings laws, KRS 61.805 to 61.850.

23 (c) The cabinet shall, on a quarterly basis, publish trend reports from the data
24 obtained by the system.

25 (d) Peace officers authorized to receive data under KRS 218A.202 may request
26 trend reports not specifically published pursuant to paragraph (c) of this
27 subsection. A report under this paragraph may be based upon the criteria

1 developed under paragraph (b) of this subsection or upon any of the data
2 collected pursuant to KRS 218A.202(4), except that the report shall not
3 identify an individual prescriber, dispenser, or patient.

- 4 (e) No trend report generated under this subsection shall identify an individual
5 prescriber, dispenser, or patient.

6 Section 547. KRS 218A.245 is amended to read as follows:

- 7 (1) The secretary of the Cabinet for Health and Family Services may enter into
8 reciprocal agreements with any other state or states of the United States to share
9 prescription drug monitoring information if the other state's prescription drug
10 monitoring program is compatible with the program in Kentucky. If the secretary
11 elects to evaluate the prescription drug monitoring program of another state as
12 authorized by this section, priority shall be given to a state that is contiguous with
13 the borders of the Commonwealth.

- 14 (2) In determining compatibility, the secretary shall consider:

- 15 (a) The essential purposes of the program and the success of the program in
16 fulfilling those purposes;
17 (b) The safeguards for privacy of patient records and its success in protecting
18 patient privacy;
19 (c) The persons authorized to view the data collected by the program;
20 (d) The schedules of controlled substances monitored;
21 (e) The data required to be submitted on each prescription;
22 (f) Any implementation criteria deemed essential for a thorough comparison; and
23 (g) The costs and benefits to the Commonwealth in mutually sharing particular
24 information available in the Commonwealth's database with the program
25 under consideration.

- 26 (3) The secretary shall review any agreement on an annual basis to determine its
27 continued compatibility with the Kentucky prescription drug monitoring program.

1 (4) The secretary shall prepare an annual report to the Governor and the Legislative
2 Research Commission that summarizes any agreement under this section and that
3 analyzes the effectiveness of that agreement in monitoring the dispensing of
4 controlled substances in the Commonwealth.

5 (5) Any agreement between the cabinet and another state shall prohibit the sharing of
6 information about a Kentucky resident, practitioner, pharmacist, or other prescriber
7 for any purpose not otherwise authorized by this section or KRS 218A.202.

8 Section 548. KRS 218A.250 is amended to read as follows:

9 The Cabinet for Health and Family Services shall promulgate administrative regulations
10 pursuant to KRS Chapter 13A for carrying out the provisions of this chapter.
11 Administrative hearings on appeals filed pursuant to this chapter shall be conducted in
12 accordance with KRS Chapter 13B.

13 Section 549. KRS 218A.275 is amended to read as follows:

14 (1) Any person found guilty of possession of a controlled substance pursuant to KRS
15 218A.1416 or 218A.1417 may for a first offense, be ordered to a facility designated
16 by the secretary of the Cabinet for Health and Family Services where a program of
17 treatment and rehabilitation not to exceed one (1) year in duration may be
18 prescribed. The person ordered to the designated facility shall present himself for
19 registration and initiation of a treatment program within five (5) days of the date of
20 sentencing. If, without good cause, the person fails to appear at the designated
21 facility within the specified time, or if at any time during the program of treatment
22 prescribed, the authorized clinical director of the facility finds that the person is
23 unwilling to participate in his treatment and rehabilitation, the director shall notify
24 the sentencing court. Upon receipt of notification, the court shall cause the person to
25 be brought before it and may continue the order of treatment and rehabilitation, or
26 may order confinement in the county jail for not more than one (1) year or a fine of
27 not more than five hundred dollars (\$500), or both. Upon discharge of the person

- 1 from the facility by the secretary of the Cabinet for Health and Family Services, or
2 his designee, prior to the expiration of the one (1) year period or upon satisfactory
3 completion of one (1) year of treatment, the person shall be deemed finally
4 discharged from sentence. The secretary, or his designee, shall notify the sentencing
5 court of the date of such discharge from the facility.
- 6 (2) The secretary of the Cabinet for Health and Family Services, or his designee, shall
7 inform each court of the identity and location of the facility to which such person is
8 sentenced.
- 9 (3) Transportation to the facility shall be provided by order of the court when the court
10 finds the person unable to convey himself to the facility within five (5) days of
11 sentencing by reason of physical infirmity or financial incapability.
- 12 (4) The sentencing court shall immediately notify the designated facility of the sentence
13 and its effective date.
- 14 (5) The secretary for health and family services, or his designee, may authorize transfer
15 of the person from the initially designated facility to another facility for therapeutic
16 purposes. The sentencing court shall be notified of termination of treatment by the
17 terminating facility.
- 18 (6) Responsibility for payment for treatment services rendered to persons pursuant to
19 this section shall be as under the statutes pertaining to payment of patients and
20 others for services rendered by the Cabinet for Health and Family Services, unless
21 the person and the facility shall arrange otherwise.
- 22 (7) Prior to the imposition of sentence upon conviction of a second or subsequent
23 offense, the court shall obtain a report of case progress and recommendations
24 regarding further treatment from any facility at which the person was treated
25 following his first conviction. If such material is not available, the court shall notify
26 the secretary of the Cabinet for Health and Family Services, and the secretary shall
27 cause the person to be examined by a psychiatrist employed by the cabinet to

1 evaluate his mental condition and to make recommendations regarding treatment
2 and rehabilitation. The psychiatrist making the examination shall submit a written
3 report of his findings and recommendations regarding treatment and rehabilitation
4 to the court which shall make the report available to the prosecuting attorney and
5 the attorney for the defendant. The court shall take such reports into consideration
6 in determining sentence. The secretary may decline to cause such examination to be
7 made if the number of psychiatrists on duty in the cabinet is insufficient to spare
8 one from his regular duties or if no such service may be purchased at regular cabinet
9 rates; in such event the secretary shall notify the clerk of the court to that effect
10 within three (3) days after receipt of notification by the court.

11 (8) None of the provisions of this section shall be deemed to preclude the court from
12 exercising its usual discretion with regard to ordering probation or conditional
13 discharge.

14 (9) In the case of any person who has been convicted for the first time of possession of
15 controlled substances, the court may set aside and void the conviction upon
16 satisfactory completion of treatment, probation, or other sentence, and issue to the
17 person a certificate to that effect. A conviction voided under this subsection shall
18 not be deemed a first offense for purposes of this chapter or deemed a conviction for
19 purposes of disqualifications or disabilities imposed by law upon conviction of a
20 crime. Voiding of a conviction under the subsection and dismissal may occur only
21 once with respect to any person.

22 Section 550. KRS 218A.276 is amended to read as follows:

23 (1) Any person found guilty of possession of marijuana pursuant to KRS 218A.1422
24 may be ordered to a facility designated by the secretary of the Cabinet for Health
25 and Family Services where a program of education, treatment, and rehabilitation
26 not to exceed ninety (90) days in duration may be prescribed. The person ordered to
27 the designated facility shall present himself for registration and initiation of a

1 treatment program within five (5) days of the date of sentencing. If without good
2 cause, the person fails to appear at the designated facility within the specified time,
3 or if any time during the program of treatment prescribed, the authorized clinical
4 director of the facility finds that the person is unwilling to participate in his
5 treatment and rehabilitation, the director shall notify the sentencing court. Upon
6 receipt of notification, the court shall cause the person to be brought before it and
7 may continue the order of treatment and rehabilitation, or may order confinement in
8 the county jail for not more than ninety (90) days or a fine of not more than two
9 hundred fifty dollars (\$250), or both. Upon discharge of the person from the facility
10 by the secretary of the Cabinet for Health and Family Services, or his designee,
11 prior to the expiration of the ninety (90) day period or upon satisfactory completion
12 of ninety (90) days of treatment, the person shall be deemed finally discharged from
13 sentence. The secretary, or his designee, shall notify the sentencing court of the date
14 of such discharge from the facility.

15 (2) The secretary of the Cabinet for Health and Family Services, or his designee, shall
16 inform each court of the identity and location of the facility to which a person
17 sentenced by that court under this chapter shall be initially ordered.

18 (3) In the case of a person ordered to a facility for treatment and rehabilitation pursuant
19 to this chapter, transportation to the facility shall be provided by order of the court
20 when the court finds the person unable to convey himself to the facility within five
21 (5) days of sentencing by reason of physical infirmity or financial incapability.

22 (4) The sentencing court shall immediately notify the designated facility of the sentence
23 and its effective date.

24 (5) The secretary of the Cabinet for Health and Family Services, or his designee, may
25 authorize transfer of the person from the initially designated facility to another
26 facility for therapeutic purposes. The sentencing court shall be notified of
27 termination of treatment by the terminating facility.

1 (6) Responsibility for payment for treatment services rendered to persons pursuant to
2 this section shall be as under the statutes pertaining to payment by patients and
3 others for services rendered by the Cabinet for Health and Family Services, unless
4 the person and the facility shall arrange otherwise.

5 (7) None of the provisions of this chapter shall be deemed to preclude the court from
6 exercising its usual discretion with regard to ordering probation or conditional
7 discharge.

8 (8) In the case of any person who has been convicted of possession of marijuana, the
9 court may set aside and void the conviction upon satisfactory completion of
10 treatment, probation, or other sentence, and issue to the person a certificate to that
11 effect. A conviction voided under this subsection shall not be deemed a first offense
12 for purposes of this chapter or deemed a conviction for purposes of disqualifications
13 or disabilities imposed by law upon conviction of a crime.

14 Section 551. KRS 218A.420 is amended to read as follows:

15 (1) All property which is subject to forfeiture under this chapter shall be disposed of in
16 accordance with this section.

17 (2) All controlled substances which are seized and forfeited under this chapter shall be
18 ordered destroyed by the order of the trial court unless there is a legal use for them,
19 in which case they may be sold to a proper buyer as determined by the Cabinet for
20 Health and Family Services by promulgated regulations. Property other than
21 controlled substances may be destroyed on order of the trial court.

22 (3) When property other than controlled substances is forfeited under this chapter, the
23 law enforcement agency may, subject to the provisions of KRS 218A.435:

24 (a) Retain it for official use;

25 (b) Sell that which is not required to be destroyed by law and which is not
26 harmful to the public. The proceeds shall be paid into the fund created in KRS
27 218A.435. Any sale shall be a public sale advertised pursuant to KRS Chapter

1 424.

2 Section 552. KRS 218A.435 is amended to read as follows:

3 (1) There is created a trust and revolving fund in the executive branch of state
4 government to be known as the "Asset Forfeiture Trust Fund" referred to in this
5 section as the "trust fund."

6 (2) The trust fund shall consist of proceeds from sale of property forfeited to the
7 Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by
8 the General Assembly, and any investment interest earned on the fund. The moneys
9 in this fund are intended to supplement any funds appropriated by the General
10 Assembly to the agency which will receive disbursements from the trust fund as
11 provided in this section.

12 (3) The trust fund shall be managed by the state Office for Investment and Debt
13 Management and all moneys in excess of the amount to be disbursed in a given
14 fiscal year shall be invested to maximize returns. The principal and any interest
15 earnings of the trust fund shall at no time lapse to the general fund.

16 (4) The trust fund shall be administered and audited by the Justice Cabinet. The
17 secretary of justice or his designee shall promulgate administrative regulations
18 necessary to further the purposes of KRS 218A.405 to 218A.460.

19 (5) The trust fund shall be disbursed in accordance with the provisions of subsection (6)
20 of this section. All interest accumulated on the fund shall immediately be available
21 for disbursement to the Justice Cabinet for costs associated with administration of
22 the fund.

23 (6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt
24 Management, allocate the moneys in the fund quarterly, on a percentage basis, as
25 provided in subsection (7) of this section.

26 (7) The principal of the trust fund shall be distributed as follows:

27 (a) Eighteen percent (18%) of the funds received in any fiscal year shall be

- 1 allocated to the unified prosecutorial system to be disbursed by the Attorney
2 General to those Commonwealth's attorneys or county attorneys who have
3 participated in the forfeiture case;
- 4 (b) Thirty-six percent (36%) of the funds received in any fiscal year shall be
5 allocated to the Cabinet for Health and Family Services to be used solely for
6 the purpose of drug and alcohol abuse education, prevention, and treatment;
- 7 (c) Thirty-six percent (36%) of the funds received in any fiscal year shall be
8 allocated to the Department of Corrections to be used solely for programs
9 related to drug enforcement and incarceration; and
- 10 (d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to
11 the Justice Cabinet to be used solely for the purpose of: training related to
12 asset forfeiture; printing program-related training materials, such as manuals
13 or handbooks; or payments to state or local agencies for programs relative to
14 crime prevention, drug abuse prevention, general law enforcement purposes,
15 or other similar purposes relating to drug enforcement.
- 16 (8) The Attorney General, the secretary of the Cabinet for Health and Family Services,
17 the commissioner of the Department of Corrections, and the secretary of the Justice
18 Cabinet or their designees shall each promulgate administrative regulations which
19 itemize the programs on which the moneys allocated from the trust fund to their
20 respective agencies shall be spent and the method by which those moneys shall be
21 disbursed to local entities.
- 22 (9) On July 13, 1990, each state and local law enforcement agency which seizes
23 property for the purpose of forfeiture under KRS 218A.410 shall, prior to being
24 eligible for the receipt of grants from the trust fund, adopt policies relating to the
25 seizure, maintenance, storage, and care of property pending forfeiture which are in
26 compliance with or which substantially comply with the model policy for seizure of
27 forfeitable assets by law enforcement agencies published by the Department of

- 1 Criminal Justice Training. However, a state or local law enforcement agency may
2 adopt policies that are more restrictive on the agency than those contained in the
3 model policy and that fairly and uniformly implement the provisions of this chapter.
- 4 (10) On July 13, 1990, each state or local law enforcement agency which seizes property
5 for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to
6 receive grants from the trust fund, have one (1) or more officers currently employed
7 attend asset-forfeiture training as approved by the Kentucky Law Enforcement
8 Council which shall approve a curriculum of study for asset-forfeiture training.
- 9 (11) Other provisions of this section notwithstanding, any vehicle seized by a law
10 enforcement agency which is forfeited pursuant to this chapter may be retained by
11 the seizing agency for official use or sold within its discretion. Proceeds from the
12 sale shall remain with the agency and shall not be paid into the trust fund and shall
13 not be considered for purposes of the limits established in subsection (12) of this
14 section. The moneys shall be utilized for purposes consistent with KRS 218A.405
15 to 218A.460. The seizing agency shall be required to pay any bona fide perfected
16 security interest on any vehicle so forfeited.
- 17 (12) Other provisions of law notwithstanding, the first fifty thousand dollars (\$50,000)
18 of forfeited coin or currency or of the proceeds from sale of any property forfeited
19 pursuant to this chapter which was seized or forfeited by a single order of forfeiture,
20 shall not be paid into the fund but ninety percent (90%) shall be paid to the law
21 enforcement agency or agencies which seized the property to be used for direct law
22 enforcement purposes and ten percent (10%) to the office of the Commonwealth's
23 attorney or county attorney who has participated in the forfeiture proceeding. The
24 moneys are intended to supplement any funds appropriated to the recipient and shall
25 not supplant other funding of any recipient. In addition, forty-five percent (45%) of
26 all proceeds above fifty thousand dollars (\$50,000) shall not be paid into the fund
27 but shall be retained by the law enforcement agency or agencies which seized the

property to be used for direct law enforcement purposes.

- (13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 553. KRS 219.011 is amended to read as follows:

As used in KRS 219.011 to 219.081:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services or its designee;
- (3) "Hotel" means every building or structure kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public, and includes motels, tourist homes, and similar establishments, but excludes boarding houses and rooming houses; and
- (4) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a hotel.

Section 554. KRS 219.320 is amended to read as follows:

As used in KRS 219.330 to 219.410:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Manufactured home" means a single-family residential dwelling constructed in accordance with the National Manufactured Housing Construction in Safety Standards Act, manufactured after June 15, 1976, and designed to be used as a

1 single-family residential dwelling with or without a permanent foundation when
2 connected to the required utilities, and including plumbing, heating, air
3 conditioning, and electrical systems. A manufactured home may also be used as a
4 place of business, profession, or trade by the owner, the lessee, or the assigns of the
5 owner or lessee and may comprise an integral unit or condominium structure.
6 Buildings, the construction of which are not preempted by the National
7 Manufactured Housing Construction in Safety Standards Act, are subject to the
8 building code requirements of KRS Chapter 198B;

9 (4) "Mobile home" means a structure manufactured prior to June 15, 1976, that was not
10 required to be constructed in accordance with the National Manufactured Housing
11 Construction in Safety Standards Act, that is transportable in one (1) or more
12 sections, that, in the traveling mode is eight (8) body feet or more in width and forty
13 (40) body feet or more in length, or when erected on site, four hundred (400) or
14 more square feet, and that is built on a permanent chassis and designed to be used as
15 a dwelling on a temporary or permanent foundation, when connected with the
16 permanent required utilities, including plumbing, heating, air conditioning, and
17 electrical systems;

18 (5) "Manufactured or mobile home lot" means a parcel of land in a manufactured or
19 mobile home community for the placement of a single manufactured or mobile
20 home;

21 (6) "Manufactured or mobile home community" means a parcel of land, under single or
22 multiple ownership and developed specifically for the purpose of leasing two (2) or
23 more residential spaces for the location of manufactured or mobile home dwellings
24 and which contain common facilities and utilities located on the premises as
25 licensed by the cabinet;

26 (7) "Community" means a manufactured home, mobile home, and recreational vehicle
27 community;

- 1 (8) "ANSI/NFPA" means the American National Standards Institute/National Fire
2 Protection Association;
- 3 (9) "Underskirting" means a weather resistant material used to enclose the space from
4 the bottom of a manufactured or mobile home to grade;
- 5 (10) "Person" means an individual, or a firm, partnership, company, corporation, trustee,
6 association, or any public or private entity owning or operating a community;
- 7 (11) "Recreational vehicle" means any of the following:
- 8 (a) "Travel trailer" means a vehicular, portable structure built on a chassis,
9 designed to be used as a temporary dwelling for travel, recreation, or vacation;
- 10 (b) "Pickup coach" means a structure designed to be mounted on a truck for use
11 as a temporary dwelling for travel, recreation, or vacation;
- 12 (c) "Motorhome" means a portable, temporary dwelling to be used for travel,
13 recreation, or vacation, constructed as an integral part of a self-propelled
14 vehicle;
- 15 (d) "Camping trailer" means a canvas or other collapsible folding structure,
16 mounted on wheels and designed for travel, recreation, or vacation use;
- 17 (e) "Dependent recreational vehicle" means a recreational vehicle which does not
18 have toilet, lavatory, or bathing facilities; or
- 19 (f) "Self-contained recreational vehicle" means a recreational vehicle which can
20 operate independent of connections to sewer, water, and electric systems. It
21 contains a water-flushed toilet, lavatory, shower or bath, kitchen sink, all of
22 which are connected to water storage and sewage holding tanks located within
23 the recreational vehicle;
- 24 (12) "Recreational vehicle community" means a parcel of land available to the public in
25 which two (2) or more recreational vehicle spaces are occupied or intended for
26 occupancy by recreational vehicles for transient dwelling purposes and includes any
27 service building, structure, enclosure, or other facility used as a part of the

1 community;

2 (13) "Recreational vehicle space" means a parcel of land in a recreational vehicle
3 community for the placement of a single recreational vehicle;

4 (14) "Sanitary station" means a facility used for receiving and disposing of wastes from
5 recreational vehicle holding tanks;

6 (15) "Service building" means a building containing water closets, urinals, lavatories,
7 and bathing facilities for use by persons using the community; and

8 (16) "Watering station" means a facility for filling the water storage tanks of recreational
9 vehicles with potable water from an approved water system.

10 Section 555. KRS 219.350 is amended to read as follows:

11 No community shall be constructed or altered without a permit as provided in KRS
12 219.310 to 219.410. An application for a permit to construct or alter a community shall be
13 made to the cabinet upon forms provided by it. The application shall include plans for
14 construction or alteration of the community and shall contain such information in regard
15 to the proposed community as the cabinet may reasonably require, which may include
16 affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410
17 and regulations adopted by the secretary. All plans for the construction, installation, or
18 alteration of buildings shall be forwarded by the cabinet to the Department of Housing,
19 Buildings and Construction. Only the Department of Housing, Buildings and
20 Construction shall review such plans for conformance with the Uniform State Building
21 Code. The Department of Housing, Buildings and Construction shall expedite the review
22 of such plans and return them to the Cabinet for Health and Family Services for
23 completion of the application process. Each application for a permit to construct or alter a
24 community shall be accompanied by a permit fee of forty-seven dollars (\$47). The cabinet
25 may, by administrative regulation, increase this fee by no more than five percent (5%) per
26 year, not to exceed a maximum fee of seventy dollars (\$70). Each permit to construct
27 shall be issued only for the person and premises, including the number of spaces named

1 in the application and shall not be transferable. Each permit to construct shall expire one
2 (1) year from date of issuance.

3 Section 556. KRS 219.390 is amended to read as follows:

4 (1) For the purpose of assisting in the developing and review of standards and
5 regulations for the administration of KRS 219.310 to 219.410, there is hereby
6 created a State Advisory Committee on Manufactured, Mobile Home, and
7 Recreational Vehicle Communities. The committee shall be composed of twelve
8 (12) members. The secretary for health and family services or his designee shall be
9 an ex officio member. The other members shall be appointed by the secretary for
10 health and family services, three (3) of whom shall represent manufactured and
11 mobile home community owners, two (2) of whom shall represent manufactured
12 and mobile home dealers, two (2) of whom shall represent recreational vehicle
13 dealers or community owners, two (2) of whom shall represent local health
14 departments, one (1) of whom shall represent the office of the state fire marshal,
15 and one (1) member who shall be a citizen at large.

16 (2) All appointed members shall serve for a term of four (4) years except that, of the
17 original appointees, two (2) shall serve for one (1) year, two (2) shall serve for two
18 (2) years, two (2) shall serve for three (3) years, and two (2) shall serve for four (4)
19 years. All vacancies shall be filled in the manner of original appointment for the
20 unexpired portion of the term only.

21 (3) Members of the committee shall receive no compensation for their services, but
22 may be reimbursed for necessary travel expenses.

23 Section 557. KRS 221.010 is amended to read as follows:

24 As used in this chapter unless the context requires otherwise:

25 (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;

26 (2) "Cabinet" means the Cabinet for Health and Family Services;

27 (3) "Food" includes any article used by man for food, drink, confectionery, or

1 condiment, or which enters into the composition of the same whether simple,
2 blended, mixed, or compounded;

3 (4) "Frozen food locker plant" means a location or establishment in which space in
4 individual lockers is rented to persons for storage of frozen food and which is
5 equipped with a chill room, sharp-freezing facilities, and facilities for cutting,
6 preparing, wrapping, and packaging meats and meat products, fruits, and
7 vegetables;

8 (5) "Branch frozen food locker plant" means a location or establishment in which space
9 in individual lockers is rented to persons for storage of frozen food after preparation
10 for storage at a frozen food locker plant; and

11 (6) "Sharp-frozen" means the freezing of food in a room in which the temperature is
12 zero (0) degrees Fahrenheit or lower.

13 Section 558. KRS 222.005 is amended to read as follows:

14 As used in this chapter, unless the context otherwise requires:

15 (1) "Administrator" means the person or the designee of the person, in charge of the
16 operation of an alcohol and other drug abuse prevention, intervention, or treatment
17 program;

18 (2) "Agency" means a legal entity operating hospital-based or nonhospital-based
19 alcohol and other drug abuse prevention, intervention, or treatment programs;

20 (3) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs
21 or both, characterized by one (1) or more of the following patterns of use:

22 (a) The continued use despite knowledge of having a persistent or recurrent
23 social, legal, occupational, psychological, or physical problem that is caused
24 or exacerbated by use of alcohol or other drugs or both;

25 (b) Use in situations which are potentially physically hazardous;

26 (c) Loss of control over the use of alcohol or other drugs or both; and

27 (d) Use of alcohol or other drugs or both is accompanied by symptoms of

- 1 physiological dependence, including pronounced withdrawal syndrome and
2 tolerance of body tissues to alcohol or other drugs or both;
- 3 (4) "Cabinet" means the Cabinet for Health and Family Services;
- 4 (5) "Director" means the director of the Division of Mental Health and Substance
5 Abuse Services of the Department for Mental Health and Mental Retardation
6 Services;
- 7 (6) "Hospital" means an establishment with organized medical staff and permanent
8 facilities with inpatient beds which provide medical services, including physician
9 services and continuous nursing services for the diagnosis and treatment of patients
10 who have a variety of medical conditions, both surgical and nonsurgical;
- 11 (7) "Intoxication" means being under the influence of alcohol or other drugs, or both,
12 which significantly impairs a person's ability to function;
- 13 (8) "Juvenile" means any person who is under the age of eighteen (18);
- 14 (9) "Narcotic treatment program" means a substance abuse program using approved
15 controlled substances and offering a range of treatment procedures and services for
16 the rehabilitation of persons dependent on opium, morphine, heroin, or any
17 derivative or synthetic drug of that group;
- 18 (10) "Other drugs" means controlled substances as defined in KRS Chapter 218A and
19 volatile substances as defined in KRS 217.900;
- 20 (11) "Patient" means any person admitted to a hospital or a licensed alcohol and other
21 drug abuse treatment program;
- 22 (12) "Program" means a set of services rendered directly to the public that is organized
23 around a common goal of either preventing, intervening, or treating alcohol and
24 other drug abuse problems;
- 25 (13) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 26 (14) "Treatment" means services and programs for the care and rehabilitation of
27 intoxicated persons and persons suffering from alcohol and other drug abuse.

1 "Treatment" includes those services provided by the cabinet in KRS 222.211 and, in
2 KRS 222.430 to 222.437, it specifically includes the services described in KRS
3 222.211(1)(c) and (d); and

- 4 (15) "Qualified health professional" has the same meaning as qualified mental health
5 professional in KRS 202A.011, except that it also includes an alcohol and drug
6 counselor certified under KRS Chapter 309.

7 Section 559. KRS 222.037 is amended to read as follows:

- 8 (1) The Cabinet for Health and Family Services may establish four (4) or more pilot
9 projects within the Commonwealth to demonstrate the effectiveness of different
10 methods of providing community services to prevent smoking and alcohol and
11 substance abuse by pregnant females; improving agency coordination to better
12 identify the pregnant smoker and substance abuser and other females who have
13 smoking and substance abuse problems; linking with community services and
14 treatment for the chemically dependent woman, her children, and other family
15 members; and gaining access to early intervention services for infants in need.

- 16 (2) The cabinet may use any state appropriation and any gifts, grants, or federal funds
17 that become available for the purposes of implementing the provisions of this
18 section.

19 Section 560. KRS 222.212 is amended to read as follows:

20 Notwithstanding the provisions of Chapter 13A, all administrative regulations
21 promulgated by the Cabinet for Human Resources relating to the licensing of alcohol and
22 drug abuse prevention, education, and treatment programs and on file with the Legislative
23 Research Commission on July 15, 1994, shall remain in full force and effect unless
24 subsequently amended or repealed by the Cabinet for Health and Family Services.

25 Section 561. KRS 223.010 is amended to read as follows:

26 As used in KRS 223.020 to 223.080, unless the context requires otherwise:

- 27 (1) "Cabinet" means the Cabinet for Health and Family Services;

- 1 (2) "Registered environmental health specialist or sanitarian" means a person trained in
 2 the field of environmental health who has qualified for registration in accordance
 3 with the provisions of this chapter;
- 4 (3) "Secretary" means the secretary of the Cabinet for Health and Family Services; and
- 5 (4) "Environmental health activity" means those program areas administered by the
 6 state and local health departments including, but not limited to, food protection,
 7 control of insect and rodents, radiation, private water supplies, on-site waste, and
 8 other environmental program areas. The term does not cover programs not
 9 administered by the cabinet.

10 Section 562. KRS 223.020 is amended to read as follows:

- 11 (1) The secretary shall appoint a registered environmental health specialist or a
 12 sanitarian examining committee consisting of five (5) members. The secretary of
 13 the Cabinet for Health and Family Services shall be an ex officio member. The
 14 other four (4) members shall be environmental health specialists or sanitarians who
 15 are registered under this chapter. The appointed members shall serve for terms of
 16 two (2) years and until their successors are appointed and qualify, except that when
 17 initial appointments are made under the provisions of this chapter, two (2) members'
 18 terms shall be for only one (1) year. Thereafter all appointments shall be for a
 19 period of two (2) years.

- 20 (2) The examining committee shall conduct, or cause to be conducted, examinations of
 21 applicants pursuant to minimum standards and qualifications established by the
 22 secretary. The examining committee shall act in an advisory capacity to the
 23 secretary in establishing such minimum standards and qualifications.

24 Section 563. KRS 224.46-820 is amended to read as follows:

- 25 (1) There is created the Kentucky Regional Integrated Waste Treatment and Disposal
 26 Facility Siting Board consisting of nine (9) permanent members and three (3)
 27 temporary members. All members shall be residents of the Commonwealth of

- 1 Kentucky. The secretary of the Cabinet for Health and Family Services or his
2 designated representative shall be a permanent member of the board.
- 3 (2) The other eight (8) permanent members of the board shall be appointed by the
4 Governor. Except for initial appointments, board members shall be appointed for a
5 term of four (4) years. Of the initial appointments, one (1) shall be appointed for a
6 term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three
7 (3) years, and three (3) for a term of four (4) years. Each of the members appointed
8 by the Governor shall hold office for the term for which he was appointed and until
9 his successor shall have been appointed and taken office in his stead or until he
10 shall resign or be removed in a manner provided by law.
- 11 (3) The permanent membership of the board shall be composed of members having the
12 following qualifications:
- 13 (a) Two (2) members having a demonstrated experience in hazardous waste
14 management;
- 15 (b) Two (2) members from the Kentucky General Assembly;
- 16 (c) Two (2) members chosen from the science and engineering faculties of the
17 institutions of higher education in Kentucky;
- 18 (d) One (1) member having demonstrated experience in industrial development
19 planning; and
- 20 (e) One (1) member representative of the general public.
- 21 (4) Three (3) temporary members of the board shall be appointed each time that an
22 application for a certificate of environmental safety and public necessity is
23 submitted. The temporary members of the board shall be appointed by the county
24 judge/executive of the county in which a regional integrated waste treatment and
25 disposal demonstration facility is proposed to be located and shall be bona fide
26 residents of the county. The temporary members of the board shall be appointed
27 within thirty (30) days of the declaration of intent required by KRS 224.46-825 and

1 224.46-830; however, failure of the appropriate appointing authority to appoint
2 temporary members of the board within thirty (30) days shall not preclude the board
3 from acting upon applications for certificates of environmental safety and public
4 necessity. Temporary members of the board shall have all the rights and privileges
5 of membership on the board while acting upon those applications for certificates for
6 which they were appointed, but shall not participate in the transaction of other
7 business by the board.

8 (5) The permanent members of the board shall choose from among their membership a
9 chairperson of the board.

10 (6) Members of the board shall be reimbursed for actual and necessary expenses
11 incurred in the performance of their duties.

12 (7) Staff services for the board shall be provided to the extent practicable by personnel
13 of the cabinet; however, the board may request and receive the assistance of any
14 state or municipal educational institution, experiment station, laboratory, or other
15 agency and arrange by contract for governmental and nongovernmental assistance
16 as necessary in the performance of its duties, including expenses for administrative
17 start-up costs incidental to the organization of the board. Services provided by state
18 and municipal agencies shall be reimbursed at cost.

19 (8) The cabinet shall not provide legal representation to the board. The board may enter
20 into personal service contracts pursuant to KRS Chapter 45A to obtain legal counsel
21 for representation on appeals to Franklin Circuit Court and in other legal matters.

22 (9) The board shall meet as necessary for the performance of its duties, upon the call of
23 the chairperson or upon the request of seven (7) members of the board by delivery
24 of written notice of the meeting to each member of the board at least five (5) days
25 prior to the meeting.

26 (10) Seven (7) members of the board shall constitute a quorum for the transaction of
27 business of the board and all actions by the board shall require the affirmative vote

1 of seven (7) members of the board.

2 Section 564. KRS 224.71-110 is amended to read as follows:

- 3 (1) The Agriculture Water Quality Authority is created and administratively attached to
4 the cabinet. The authority shall be a multidiscipline peer group that shall evaluate,
5 develop, and improve best-management practices in conservation plans, compliance
6 plans, and forest stewardship management plans; establish statewide and regional
7 agriculture water quality plans; and otherwise promote soil and water conservation
8 activities that protect waters of the Commonwealth from the adverse impacts of
9 agriculture operations within the Commonwealth. The cabinet shall provide staff to
10 the authority.
- 11 (2) Within six (6) months of July 15, 1994, the Soil and Water Conservation
12 Commission shall submit to the Governor for appointment to the Agriculture Water
13 Quality Authority a list of three (3) persons recommended by each of the following
14 state agencies and organizations:
- 15 (a) Kentucky Association of Conservation Districts;
 - 16 (b) Kentucky Department of Agriculture;
 - 17 (c) University of Kentucky College of Agriculture Cooperative Extension
18 Service;
 - 19 (d) Kentucky Farm Bureau Federation, Inc.;
 - 20 (e) Division of Conservation, Natural Resources and Environmental Protection
21 Cabinet;
 - 22 (f) Division of Forestry, Natural Resources and Environmental Protection
23 Cabinet;
 - 24 (g) Kentucky Geological Survey; and
 - 25 (h) Environmental organizations.

26 The membership of the Agriculture Water Quality Authority appointed by the
27 Governor shall consist of one (1) representative from each of the groups identified

in paragraphs (a) to (h) of this subsection and three (3) members at large from agriculture operations. The Soil and Water Conservation Commission shall solicit nominations from Kentucky agriculture operations organizations and submit those names to the Governor for selection of the three (3) members at large from agriculture operations. The Governor shall select four (4) members to serve two (2) year initial terms, four (4) members to serve three (3) year initial terms, and three (3) members to serve four (4) year initial terms. All succeeding terms shall be four (4) year terms. A representative from the United States Soil Conservation Service and a representative from the United States Agriculture Stabilization and Conservation Service may also be appointed by the Governor to serve on the authority. One (1) representative each from the Division of Water, Natural Resources and Environmental Protection Cabinet and the Division of **Public Health Protection and**~~Environmental Health and Community~~ Safety, Cabinet for Health **and Family** Services shall serve as ex officio members.

(3) It shall be the responsibility of the Agriculture Water Quality Authority to establish, at a minimum, the following four (4) committees for agriculture operations, with membership outside the Agriculture Water Quality Authority:

- (a) Livestock, including but not limited to, beef, swine, dairy, poultry, and equine;
- (b) Crops, including but not limited to, tobacco, corn, soybeans, small grains, fruits and vegetables, pasture and timber;
- (c) Pesticides, fertilizers, and other agricultural chemicals; and
- (d) Farmstead issues.

(4) The Agriculture Water Quality Authority shall have the following responsibilities:

- (a) Review water quality data as available;
- (b) Review university research on water quality and alternative best-management practices research;
- (c) Evaluate the adoption and effectiveness of best-management practices, and

- 1 modify best-management practice design standards to improve water quality
2 protection practices;
- 3 (d) Develop by July 1, 1996, statewide agriculture water quality plans to address
4 identifiable water pollution problems from agriculture operations, and
5 continue to evaluate and modify the agriculture water quality plans, as
6 necessary to prevent water pollution from agriculture operations;
- 7 (e) Assist with the review of state-funded and other water quality monitoring data
8 and with the establishment of agriculture water priority protection regions;
- 9 (f) Provide technical assistance to persons engaged in agriculture operations and
10 to the Soil and Water Conservation Commission in its efforts to coordinate
11 water quality protection as related to agriculture operations;
- 12 (g) Work with the United States Soil Conservation Service, United States
13 Agriculture Stabilization and Conservation Service, and conservation districts
14 to disseminate to agriculture operations the best-management practices,
15 conservation plans, compliance plans, forest stewardship management plans,
16 and agriculture water quality plans which address the protection of
17 groundwater and surface water;
- 18 (h) Provide the Governor and the Legislative Research Commission with biennial
19 reports of the progress of the Agriculture Water Quality Authority program;
20 and
- 21 (i) Establish procedures for modifications to be incorporated into statewide or
22 regional agriculture water quality plans.
- 23 (5) The cabinet's Division of Water shall approve or disapprove any statewide and
24 regional water quality plan within thirty (30) days of receiving the plan from the
25 Agriculture Water Quality Authority. All provisions of a statewide or regional water
26 quality plan not found deficient shall be approved. If the Division of Water finds
27 any provision of the statewide or regional agriculture water quality plan deficient,

1 the Division of Water shall give written notice to the authority of those provisions
2 found to be deficient. Within the thirty (30) days following the notice of deficiency,
3 the authority shall deliver to the Division of Water a written response setting forth
4 proposed solutions to the deficiencies. Any deficiencies which remain unresolved
5 shall be resolved in a manner agreed to jointly by the Division of Water and the
6 authority within sixty (60) days unless the Division of Water and authority jointly
7 agree to an extension or alternate dispute resolution. The Division of Water shall
8 approve or disapprove all modifications to the statewide and regional plans as set
9 forth at KRS 224.71-120(8).

10 Section 565. KRS 237.110 is amended to read as follows:

11 (1) The Department of State Police is authorized to issue licenses to carry concealed
12 firearms or other deadly weapons to persons qualified as provided in this section.
13 The Department of State Police or the Administrative Office of the Courts shall
14 conduct a record check, covering all offenses and conditions which are required
15 under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C.
16 sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years
17 from the date of issuance. Any person in compliance with the terms of the license
18 may carry a concealed firearm or other deadly weapon or combination of firearms
19 and other deadly weapons on or about his person. The licensee shall carry the
20 license at all times the licensee is carrying a concealed firearm or other deadly
21 weapon and shall display the license upon request of a law enforcement officer.
22 Violation of the provisions of this subsection shall constitute a noncriminal
23 violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the
24 District Court.

25 (2) The Department of State Police, following the record check required by subsection
26 (1) of this section, shall issue a license if the applicant:

27 (a) 1. Is a resident of the state and has been a resident for six (6) months or

1 longer immediately preceding the filing of the application; or

2 2. Is a member of the Armed Forces of the United States who is on active
3 duty, who is at the time of application assigned to a military posting in
4 Kentucky, and who has been assigned to a posting in the
5 Commonwealth for six (6) months or longer immediately preceding the
6 filing of the application;

7 (b) Is twenty-one (21) years of age or older;

8 (c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or
9 (g) or KRS 527.040;

10 (d) Has not been committed to a state or federal facility for the abuse of a
11 controlled substance or been convicted of a misdemeanor violation of KRS
12 Chapter 218A or similar laws of any other state relating to controlled
13 substances within a three (3) year period immediately preceding the date on
14 which the application is submitted;

15 (e) Does not chronically and habitually use alcoholic beverages as evidenced by
16 the applicant having two (2) or more convictions for violating KRS 189A.010
17 within the three (3) years immediately preceding his application or if the
18 applicant has been committed as an alcoholic pursuant to KRS Chapter 222,
19 or similar laws of any other state, within the three (3) year period immediately
20 preceding the date on which the application is submitted;

21 (f) Demonstrates competence with a firearm by completion of a firearms safety or
22 training course or class offered or approved by the Department of Criminal
23 Justice Training.

24 Classes presented pursuant to this paragraph shall include instruction on
25 handguns, the safe use of handguns, the care and cleaning of handguns,
26 handgun marksmanship principles, and actual range firing of a handgun in a
27 safe manner. Classes presented pursuant to this paragraph shall include

1 information on laws relating to firearms as described in KRS Chapters 237
2 and 527 and the law of the use of force as described in KRS Chapter 503. The
3 Department of Criminal Justice Training shall promulgate uniform
4 administrative regulations concerning the certification and decertification of
5 all firearms instructors practicing in the Commonwealth of Kentucky.
6 Notwithstanding any other provision of the Kentucky Revised Statutes, no
7 person shall qualify as having demonstrated competence with a firearm
8 pursuant to this subsection, unless certified by a governmental agency of the
9 Commonwealth of Kentucky, or of the federal government. The
10 Administrative Office of the Courts shall publish and make available, at no
11 cost, information in a manner suitable for distribution to class participants. A
12 legible photocopy of a certificate of completion of any of the courses or
13 classes or a notarized affidavit from the instructor, school, club, organization,
14 or group that conducts or teaches the course or class attesting to the
15 completion of the course or class by the applicant shall constitute evidence of
16 qualification under this paragraph. Peace officers who are currently certified
17 as peace officers by the Kentucky Law Enforcement Council pursuant to KRS
18 15.380 to 15.404 and peace officers who are retired and are members of the
19 Kentucky Employees Retirement System, State Police Retirement System, or
20 County Employees Retirement System or other retirement system operated by
21 or for a city, county, or urban-county in Kentucky shall be deemed to have met
22 the training requirement;

23 (g) Has not been adjudicated an incompetent under KRS Chapter 202B or has
24 waited three (3) years from the date his competency was restored by the court
25 order under KRS Chapter 202B; and

26 (h) Has not been involuntarily committed to a mental institution pursuant to KRS
27 Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in

- 1 this state that he has not suffered from disability for a period of three (3) years.
- 2 (3) The Department of State Police may deny a license if the applicant has been found
3 guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period
4 prior to the date on which the application is submitted or may revoke a license if the
5 licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the
6 preceding three (3) years.
- 7 (4) The Department of State Police shall deny, suspend, or revoke a license to carry a
8 concealed deadly weapon upon written notice by the Cabinet for Health and
9 Family Services~~[Families and Children]~~ that the person has a child support
10 arrearage which equals or exceeds the cumulative amount which would be owed
11 after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to
12 comply with a subpoena or warrant relating to paternity or child support
13 proceedings.
- 14 (5) The application for a permit, or renewal of a permit, to carry a concealed deadly
15 weapon shall be obtained from the office of the sheriff in the county in which the
16 person resides. The completed application and all accompanying material plus an
17 application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be
18 presented to the office of the sheriff of the county in which the applicant resides. A
19 full-time or part-time peace officer who is currently certified as a peace officer by
20 the Kentucky Law Enforcement Council who is authorized by his or her employer
21 or government authority to carry a concealed deadly weapon at all times and all
22 locations within the Commonwealth pursuant to KRS 527.020 or a retired peace
23 officer who is a member of the Kentucky Employees Retirement System, State
24 Police Retirement System, County Employees Retirement System, or other
25 retirement system operated by or for a city, county, or urban-county in Kentucky
26 shall be exempt from paying the application or renewal fees. The sheriff shall
27 transmit the application and accompanying material to the Department of State

1 Police within five (5) working days. Twenty dollars (\$20) of the application fee
2 shall be retained by the office of the sheriff for official expenses of the office.
3 Twenty dollars (\$20) shall be sent to the Department of State Police with the
4 application. Ten dollars (\$10) shall be transmitted by the sheriff to the
5 Administrative Office of the Courts to fund background checks for youth leaders,
6 and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts
7 to fund background checks for applicants for concealed weapons. The application
8 shall be completed, under oath, on a form promulgated by the Department of State
9 Police by administrative regulation which shall only include:

- 10 (a) The name, address, place and date of birth, gender, and Social Security
11 number of the applicant;
- 12 (b) A statement that, to the best of his knowledge, the applicant is in compliance
13 with criteria contained within subsections (2) and (3) of this section;
- 14 (c) A statement that the applicant has been furnished a copy of this section and is
15 knowledgeable about its provisions;
- 16 (d) A statement that the applicant has been furnished a copy of, has read, and
17 understands KRS Chapter 503 as it pertains to the use of deadly force for self-
18 defense in Kentucky; and
- 19 (e) A conspicuous warning that the application is executed under oath and that a
20 materially false answer to any question, or the submission of any materially
21 false document by the applicant, subjects the applicant to criminal prosecution
22 under KRS 523.030.

- 23 (6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the
24 applicant's county of residence:

- 25 (a) A completed application as described in subsection (5) of this section;
- 26 (b) A recent color photograph of the applicant, as prescribed by administrative
27 regulation; and

1 (c) A photocopy of a certificate or an affidavit or document as described in
2 subsection (2)(f) of this section.

3 (7) The Department of State Police shall, within ninety (90) days after the date of
4 receipt of the items listed in subsection (6) of this section, either:

5 (a) Issue the license; or

6 (b) Deny the application based solely on the grounds that the applicant fails to
7 qualify under the criteria listed in subsection (2) or (3) of this section. If the
8 Department of State Police denies the application, it shall notify the applicant
9 in writing, stating the grounds for denial and informing the applicant of a right
10 to submit, within thirty (30) days, any additional documentation relating to the
11 grounds of denial. Upon receiving any additional documentation, the
12 Department of State Police shall reconsider its decision and inform the
13 applicant within twenty (20) days of the result of the reconsideration. The
14 applicant shall further be informed of the right to seek de novo review of the
15 denial in the District Court of his place of residence within ninety (90) days
16 from the date of the letter advising the applicant of the denial.

17 (8) The Department of State Police shall maintain an automated listing of
18 licenseholders and pertinent information, and this information shall be available on-
19 line, upon request, at all times to all Kentucky law enforcement agencies. Except as
20 provided in this subsection, information on applications for licenses, names and
21 addresses, or other identifying information relating to license holders shall be
22 confidential and shall not be made available except to law enforcement agencies.
23 Requests for information to be provided to any requester other than a bona fide law
24 enforcement agency which has direct access to the Law Enforcement Information
25 Network of Kentucky shall be made, in writing, directly to the commissioner of the
26 Department of State Police, together with the fee required for the providing of the
27 information. The Department of State Police shall, upon proper application and the

1 payment of the required fee, provide to the requester in hard copy form only, a list
2 of names of all holders in the Commonwealth of a license to carry a concealed
3 deadly weapon. No identifying information other than the name shall be provided,
4 and information for geographic areas or other subdivisions of any type from the list
5 shall not be provided and shall be confidential. The fee to be charged shall be the
6 same as for other public records provided by the Department of State Police. No
7 request for lists of local or statewide permit holders shall be made to any state or
8 local law enforcement agency, peace officer, or other agency of government other
9 than the Department of State Police, and no state or local law enforcement agency,
10 peace officer, or agency of government, other than the Department of State Police,
11 shall provide any information not entitled to it by law. The names of all persons,
12 other than law enforcement agencies and peace officers, requesting information
13 under this section shall be a public record.

14 (9) Within thirty (30) days after the changing of a permanent address, or within thirty
15 (30) days after the loss or destruction of a license, the licensee shall notify the
16 Department of State Police of the loss or destruction. Failure to notify the
17 Department of State Police shall constitute a noncriminal violation with a penalty of
18 twenty-five dollars (\$25) payable to the clerk of the District Court. When a licensee
19 makes application to change his or her residence address or other information on the
20 license, neither the sheriff nor the Department of State Police shall require a
21 surrender of the license until a new license is in the office of the applicable sheriff
22 and available for issuance. Upon the issuance of a new license, the old license shall
23 be destroyed by the sheriff.

24 (10) If a license is lost or destroyed, the license shall be automatically invalid, and the
25 person to whom the same was issued may, upon payment of fifteen dollars (\$15) to
26 the Department of State Police, obtain a duplicate, upon furnishing a notarized
27 statement to the Department of State Police that the license has been lost or

1 destroyed.

2 (11) A license issued under this section shall be suspended or revoked if the licensee
3 becomes ineligible to be issued a license under the criteria set forth in subsection
4 (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or
5 emergency protective order is issued pursuant to the provisions of KRS Chapter 403
6 against a person holding a license issued under this section, the holder of the permit
7 shall surrender the license to the court or to the officer serving the order. The officer
8 to whom the license is surrendered shall forthwith transmit the license to the court
9 issuing the order. The license shall be suspended until the order is terminated, or
10 until the judge who issued the order terminates the suspension prior to the
11 termination of the underlying domestic violence order or emergency protective
12 order, in writing and by return of the license, upon proper motion by the license
13 holder. Subject to the same conditions as above, a peace officer against whom an
14 emergency protective order or domestic violence order has been issued shall not be
15 permitted to carry a concealed deadly weapon when not on duty, the provisions of
16 KRS 527.020 to the contrary notwithstanding.

17 (12) Not less than ninety (90) days prior to the expiration date of the license, the
18 Department of State Police shall mail to each licensee a written notice of the
19 expiration and a renewal form prescribed by the Department of State Police. The
20 licensee may renew his license on or before the expiration date by filing with the
21 sheriff of his county of residence the renewal form, a notarized affidavit stating that
22 the licensee remains qualified pursuant to the criteria specified in subsections (2)
23 and (3) of this section, and the required renewal fee. The license shall be renewed to
24 a qualified applicant upon receipt of the completed renewal application and
25 appropriate payment of fees. When a licensee makes application for a renewal of his
26 or her license, neither the sheriff nor the Department of State Police shall require a
27 surrender of the license until the new license is in the office of the applicable sheriff

1 and available for issuance. Upon the issuance of a new license, the old license shall
2 be destroyed by the sheriff. A licensee who fails to file a renewal application on or
3 before its expiration date may renew his license by paying, in addition to the license
4 fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months
5 or more after its expiration date, and the license shall be deemed to be permanently
6 expired six (6) months after its expiration date. A person whose license has
7 permanently expired may reapply for licensure pursuant to subsections (5), (6), and
8 (7) of this section.

9 (13) No license issued pursuant to this section shall authorize any person to carry a
10 concealed firearm into:

- 11 (a) Any police station or sheriff's office;
- 12 (b) Any detention facility, prison, or jail;
- 13 (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court
14 proceeding;
- 15 (d) Any meeting of the governing body of a county, municipality, or special
16 district; or any meeting of the General Assembly or a committee of the
17 General Assembly, except that nothing in this section shall preclude a member
18 of the body, holding a concealed deadly weapon license, from carrying a
19 concealed deadly weapon at a meeting of the body of which he is a member;
- 20 (e) Any portion of an establishment licensed to dispense beer or alcoholic
21 beverages for consumption on the premises, which portion of the
22 establishment is primarily devoted to that purpose;
- 23 (f) Any elementary or secondary school facility without the consent of school
24 authorities as provided in KRS 527.070, any child-caring facility as defined in
25 KRS 199.011, any day-care center as defined in KRS 199.894, or any certified
26 family child-care home as defined in KRS 199.8982, except however, any
27 owner of a certified child-care home may carry a concealed firearm into the

1 owner's residence used as a certified child-care home;

2 (g) An area of an airport to which access is controlled by the inspection of
3 persons and property; or

4 (h) Any place where the carrying of firearms is prohibited by federal law.

5 (14) The owner, business or commercial lessee, or manager of a private business
6 enterprise, day-care center as defined in KRS 199.894 or certified or licensed family
7 child-care home as defined in KRS 199.8982, or a health-care facility licensed
8 under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit
9 persons holding concealed deadly weapon licenses from carrying concealed deadly
10 weapons on the premises and may prohibit employees, not authorized by the
11 employer, holding concealed deadly weapons licenses from carrying concealed
12 deadly weapons on the property of the employer. If the building or the premises are
13 open to the public, the employer or business enterprise shall post signs on or about
14 the premises if carrying concealed weapons is prohibited. Possession of weapons, or
15 ammunition, or both in a vehicle on the premises shall not be a criminal offense so
16 long as the weapons, or ammunition, or both are not removed from the vehicle or
17 brandished while the vehicle is on the premises. A private but not a public employer
18 may prohibit employees or other persons holding a concealed deadly weapons
19 license from carrying concealed deadly weapons, or ammunition, or both in vehicles
20 owned by the employer, but may not prohibit employees or other persons holding a
21 concealed deadly weapons license from carrying concealed deadly weapons, or
22 ammunition, or both in vehicles owned by the employee, except that the Justice
23 Cabinet may prohibit an employee from carrying any weapons, or ammunition, or
24 both other than the weapons, or ammunition, or both issued or authorized to be used
25 by the employee of the cabinet, in a vehicle while transporting persons under the
26 employee's supervision or jurisdiction. Carrying of a concealed weapon, or
27 ammunition, or both in a location specified in this subsection by a license holder

1 shall not be a criminal act but may subject the person to denial from the premises or
2 removal from the premises, and, if an employee of an employer, disciplinary
3 measures by the employer.

4 (15) All moneys collected by the Department of State Police pursuant to this section
5 shall be used to administer the provisions of this section. By March 1 of each year,
6 the Department of State Police and the Administrative Office of the Courts shall
7 submit reports to the Governor, the President of the Senate, and the Speaker of the
8 House of Representatives, indicating the amounts of money collected and the
9 expenditures related to this section and KRS 237.115, 244.125, 527.020, and
10 527.070, and the administration of the provisions of this section and KRS 237.115,
11 244.125, 527.020, and 527.070.

12 (16) The General Assembly finds as a matter of public policy that it is necessary to
13 provide statewide uniform standards for issuing licenses to carry concealed firearms
14 and to occupy the field of regulation of the bearing of concealed firearms to ensure
15 that no person who qualifies under the provisions of this section is denied his rights.
16 The General Assembly does not delegate to the Department of State Police the
17 authority to regulate or restrict the issuing of licenses provided for in this section
18 beyond those provisions contained in this section. This section shall be liberally
19 construed to carry out the constitutional right to bear arms for self-defense.

20 (17) (a) A person who has a valid license issued by another state of the United States
21 to carry a concealed deadly weapon in that state may, subject to provisions of
22 Kentucky law, carry a concealed deadly weapon in Kentucky, and his license
23 shall be considered as valid in Kentucky.

24 (b) The Department of State Police shall, not later than thirty (30) days after July
25 15, 1998, and not less than once every six (6) months thereafter, make written
26 inquiry of the concealed deadly weapon carrying licensing authorities in each
27 other state as to whether a Kentucky resident may carry a concealed deadly

1 weapon in their state based upon having a valid Kentucky concealed deadly
2 weapon license, or whether a Kentucky resident may apply for a concealed
3 deadly weapon carrying license in that state based upon having a valid
4 Kentucky concealed deadly weapon license. The Department of State Police
5 shall attempt to secure from each other state permission for Kentucky
6 residents who hold a valid Kentucky concealed deadly weapon license to carry
7 concealed deadly weapons in that state, either on the basis of the Kentucky
8 license or on the basis that the Kentucky license is sufficient to permit the
9 issuance of a similar license by the other state. The Department of State Police
10 shall enter into a written reciprocity agreement with the appropriate agency in
11 each state that agrees to permit Kentucky residents to carry concealed deadly
12 weapons in the other state on the basis of a Kentucky-issued concealed deadly
13 weapon license or that will issue a license to carry concealed deadly weapons
14 in the other state based upon a Kentucky concealed deadly weapon license. If
15 a reciprocity agreement is reached, the requirement to recontact the other state
16 each six (6) months shall be eliminated as long as the reciprocity agreement is
17 in force. The information shall be a public record and shall be available to
18 individual requesters free of charge for the first copy and at the normal rate for
19 open records requests for additional copies.

20 (18) By March 1 of each year, the Department of State Police shall submit a statistical
21 report to the Governor, the President of the Senate, and the Speaker of the House of
22 Representatives, indicating the number of licenses issued, revoked, suspended, and
23 denied since the previous report and in total and also the number of licenses
24 currently valid. The report shall also include the number of arrests, convictions, and
25 types of crimes committed since the previous report by individuals licensed to carry
26 concealed weapons.

27 (19) The following provisions shall apply to concealed deadly weapon training classes

1 conducted by the Department of Criminal Justice Training or any other agency
2 pursuant to this section:

3 (a) No concealed deadly weapon instructor trainer shall have his or her
4 certification as a concealed deadly weapon instructor trainer reduced to that of
5 instructor or revoked except after a hearing conducted pursuant to KRS
6 Chapter 13B in which the instructor is found to have committed an act in
7 violation of the applicable statutes or administrative regulations;

8 (b) No concealed deadly weapon instructor shall have his or her certification as a
9 concealed deadly weapon instructor license suspended or revoked except after
10 a hearing conducted pursuant to KRS Chapter 13B in which the instructor is
11 found to have committed an act in violation of the applicable statutes or
12 administrative regulations;

13 (c) Each concealed deadly weapon instructor or instructor trainer shall notify the
14 Department of Criminal Justice Training not less than fourteen (14) days prior
15 to the beginning of concealed deadly weapon applicant or concealed deadly
16 weapon instructor training of the time, date, and location at which the class
17 will be conducted. The department, upon the request of a firearms instructor
18 trainer or certified firearms instructor, may permit a class to begin on less than
19 fourteen (14) days' notice. The notice need not contain the names of the
20 students. The notice may be made by mail, facsimile, e-mail, or other method
21 which will result in the receipt of or production of a hard copy of the
22 application. The postmark, facsimile date, or e-mail date shall be considered
23 as the date on which the notice was sent;

24 (d) Each concealed deadly weapon instructor or instructor trainer who teaches a
25 concealed deadly weapon applicant or concealed deadly weapon instructor
26 class shall supply the Department of Criminal Justice Training with a class
27 roster indicating which students enrolled but did not successfully complete the

1 class, and which students enrolled and successfully completed the class which
2 contains the name and address of each student, within five (5) working days of
3 the completion of the class. The information may be sent by mail, facsimile, e-
4 mail, or other method which will result in the receipt of or production of a
5 hard copy of the information. The postmark, facsimile date, or e-mail date
6 shall be considered as the date on which the notice was sent;

7 (e) An instructor trainer who assists in the conduct of a concealed deadly weapon
8 instructor class or concealed deadly weapon applicant class for more than two
9 (2) hours shall be considered as to have taught a class for the purpose of
10 maintaining his or her certification. All class record forms shall include spaces
11 for assistant instructors to sign and certify that they have assisted in the
12 conduct of a concealed deadly weapon instructor or concealed deadly weapon
13 class;

14 (f) An instructor who assists in the conduct of a concealed deadly weapon
15 applicant class for more than two (2) hours shall be considered as to have
16 taught a class for the purpose of maintaining his or her license. All class
17 record forms shall include spaces for assistant instructors to sign and certify
18 that they have assisted in the conduct of a concealed deadly weapon class;

19 (g) If the Department of Criminal Justice Training believes that a firearms
20 instructor trainer or certified firearms instructor has not in fact complied with
21 the requirements for teaching a certified firearms instructor or applicant class
22 by not teaching the class as specified in KRS 237.126, or who has taught an
23 insufficient class as specified in KRS 237.128, the department shall send to
24 each person who has been listed as successfully completing the concealed
25 deadly weapon applicant class or concealed deadly weapon instructor class a
26 verification form on which the time, date, date of range firing if different from
27 the date on which the class was conducted, location, and instructor of the class

1 is listed by the department and which requires the person to answer "yes" or
2 "no" to specific questions regarding the conduct of the training class. The
3 form shall be completed under oath and shall be returned to the Department of
4 Criminal Justice Training not later than thirty (30) days after its receipt.
5 Failure to complete the form, to sign the form, or to return the form to the
6 Department of Criminal Justice Training within the time frame specified in
7 this section or who, as a result of information on the returned form, is
8 determined by the Department of Criminal Justice Training, following a
9 hearing pursuant to KRS Chapter 13B, to not have received the training
10 required by law shall be grounds for the Department of State Police to revoke
11 the person's concealed deadly weapon license, following a hearing conducted
12 pursuant to KRS Chapter 13B, at which hearing the person is found to have
13 violated the provisions of this section or who has been found not to have
14 received the training required by law;

15 (h) The department shall randomly inspect certified firearms instructor classes
16 being conducted by firearms instructor trainers and shall randomly inspect
17 applicant classes being conducted by firearms instructor trainers or certified
18 firearms instructors to ascertain if the class is being conducted in conformity
19 to the provisions of applicable statutes and administrative regulations and that
20 the paperwork in the class matches the paperwork ultimately submitted by the
21 firearms instructor trainer or certified firearms instructor for that same class.
22 The department shall annually, not later than December 31 of each year, report
23 to the Legislative Research Commission:

- 24 1. The number of random inspections;
- 25 2. The results of those inspections;
- 26 3. The number of deficiencies noted;
- 27 4. The nature of the deficiencies noted;

- 1 5. If a deficiency was noted, the categories of action taken by the
- 2 department to either correct the deficiency or discipline the instructor, or
- 3 a combination thereof;
- 4 6. The number of firearms instructor trainers and certified firearms
- 5 instructors whose certifications were suspended, revoked, denied, or
- 6 who were otherwise disciplined;
- 7 7. The reasons for the imposition of suspensions, revocations, denials, or
- 8 other discipline; and
- 9 8. Suggestions for improvement of the concealed deadly weapon applicant
- 10 training program and instructor process;
- 11 (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to,
- 12 or enters an Alford plea to a felony offense, then his or her concealed deadly
- 13 weapon license shall be forthwith revoked by the Department of State Police
- 14 as a matter of law;
- 15 (j) If a concealed deadly weapon instructor or instructor trainer is convicted of,
- 16 pleads guilty to, or enters an Alford plea to a felony offense, then his or her
- 17 concealed deadly weapon instructor certification or concealed deadly weapon
- 18 instructor trainer certification shall be revoked by the Department of Criminal
- 19 Justice Training as a matter of law; and
- 20 (k) The provisions of this section shall be deemed to be retroactive to March 1,
- 21 2002, and the following shall be in effect:
- 22 1. Action to eliminate the firearms instructor trainer program as done by
- 23 emergency administrative regulation is rescinded, the program shall
- 24 remain in effect, and no firearms instructor trainer shall have his or her
- 25 certification reduced to that of certified firearms instructor;
- 26 2. The Kentucky State Police may revoke the concealed deadly weapon
- 27 license of any person who received no firearms training as required by

1 KRS 237.126 and administrative regulations or who received
 2 insufficient training as required by KRS 237.128 and administrative
 3 regulations, if the person voluntarily admits nonreceipt of training or
 4 admits receipt of insufficient training, or if either nonreceipt of training
 5 or receipt of insufficient training is proven following a hearing
 6 conducted pursuant to KRS Chapter 13B. Any action taken by the
 7 Kentucky State Police, other than revoking a permit for voluntary
 8 admission of nonreceipt of training or receipt of insufficient training to
 9 revoke a concealed deadly weapon license of a person suspected of
 10 nonreceipt of training or receipt of insufficient training, between March
 11 1, 2002, and July 15, 2002, is suspended until the conduct of a KRS
 12 Chapter 13B hearing after July 15, 2002; and

- 13 3. Any person who has received a training affidavit requiring the person to
 14 verify training conducted during a firearms instructor course or applicant
 15 course from the Department of Criminal Justice Training between
 16 March 1, 2002, and July 15, 2002, shall have the time to respond to the
 17 training affidavit extended to August 1, 2002. The department shall
 18 notify each person who has not, as of July 15, 2002, returned his or her
 19 training affidavit of the extension of time to file the affidavit.

20 Section 566. KRS 243.895 is amended to read as follows:

- 21 (1) All licensed retail vendors of alcoholic beverages shall post in a prominent place
 22 easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14)
 23 inches in size, with letters at least one (1) inch high, supplied by the Alcoholic
 24 Beverage Control Commission, and with gender-neutral language supplied by the
 25 Cabinet for Health and Family Services, which shall warn that drinking alcoholic
 26 beverages prior to conception or during pregnancy can cause birth defects.
- 27 (2) A person who violates subsection (1) of this section shall be subject to a fine of not

1 less than ten dollars (\$10) nor more than fifty dollars (\$50).

2 Section 567. KRS 248.664 is amended to read as follows:

3 Before distribution of the funds, a list of individuals or entities that are awarded tobacco
 4 settlement moneys from the tobacco settlement agreement fund under KRS 248.654, or
 5 related state or federal legislation, shall be forwarded by the cabinet, agency, corporation,
 6 authority, or other entity responsible for the distribution of the moneys to all designees of
 7 the Cabinet for Health and Family Services~~[Families and Children]~~ for the
 8 administration of the child support program.

9 Section 568. KRS 258.005 is amended to read as follows:

10 As used in KRS 258.005 to 258.087, unless the context requires otherwise:

- 11 (1) "Dog" means any canine three (3) months of age or older for which there exists a
 12 United States Department of Agriculture approved rabies vaccine;
- 13 (2) "Owner" means any person owning, keeping, or harboring a dog, cat, or ferret in
 14 Kentucky;
- 15 (3) "Veterinarian" means a licensed practitioner of veterinary medicine;
- 16 (4) "Qualified person" means a person granted a permit by the secretary for health and
 17 family services to vaccinate his own dog against rabies;
- 18 (5) "Vaccination" means the administration by a veterinarian or other qualified person
 19 of rabies vaccine approved by and administered in accordance with administrative
 20 regulations promulgated by the secretary for health and family services;
- 21 (6) "Cat " means any feline three (3) months of age or older for which there exists a
 22 United States Department of Agriculture approved rabies vaccine;
- 23 (7) "Animal control officer" means an individual who is employed or appointed by, or
 24 has contracted with:
 - 25 (a) A city, county, urban-county, charter county, or consolidated local
 26 government to enforce the provisions of this chapter, the provisions of the
 27 Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of

1 animals, and local animal control ordinances; or

2 (b) An entity that has contracted with a city, county, urban-county, charter county,
3 or consolidated local government to enforce the provisions of this chapter, the
4 provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment,
5 or torture of animals, and local animal control ordinances;

6 (8) "Ferret" means any musteline three (3) months of age or older for which there exists
7 a United States Department of Agriculture approved rabies vaccine; and

8 (9) "Quarantine" means the confinement of an animal for observation of clinical signs
9 of illness indicating rabies infection, and the prevention of escape or contact with
10 any person or other animal.

11 Section 569. KRS 258.015 is amended to read as follows:

12 (1) Every owner shall have his dog, cat, or ferret initially vaccinated against rabies by
13 the age of four (4) months and revaccinated at the expiration of the immunization
14 period as certified by the veterinarian. The veterinarian who vaccinates a dog, cat,
15 or ferret shall issue to the owner a vaccination certificate on a form approved by the
16 Cabinet for Health and Family Services. The vaccination certificate shall be
17 prepared and issued in duplicate, one (1) copy to be retained by the issuing
18 veterinarian and one (1) copy to be given to the owner of the dog, cat, or ferret
19 vaccinated. Each certificate shall bear the name and address of the veterinarian who
20 issued it. The veterinarian shall also furnish each dog owner with a rabies tag
21 bearing a serial number corresponding to the vaccination certificate with the year of
22 immunization. The tag shall be affixed to a collar or harness furnished by the owner
23 and shall be worn by the dog for which the tag was issued. No one except the owner
24 or his duly authorized agent shall remove the tag.

25 (2) Every qualified person who vaccinates his own dog shall comply with the
26 vaccination certificate and tag requirement provisions of subsection (1) of this
27 section.

1 (3) Every owner of a cat or ferret shall show proof of a valid rabies vaccination upon
2 request of an animal control officer or peace officer.

3 (4) Any person with feral cats on his premises shall make a reasonable effort to capture
4 or vaccinate the cats.

5 Section 570. KRS 258.035 is amended to read as follows:

6 Any owner who has had his dog, cat, or ferret vaccinated against rabies in another state by
7 the proper authority shall not be required to have the dog, cat, or ferret revaccinated when
8 brought into this state provided the requirements of the state under which the vaccination
9 was made were of a standard not lower than those required in this state, and provided
10 further that the dog wears a tag affixed to its collar or harness bearing the year of the
11 vaccination and the owner of the cat or ferret shows proof of a valid rabies vaccination.
12 One (1) year after the date of the vaccination, the dog, cat, or ferret shall be revaccinated
13 unless provided otherwise by administrative regulations promulgated by the secretary for
14 health and family services. The secretary for health and family services may promulgate
15 administrative regulations governing the matter of reciprocity with other states.

16 Section 571. KRS 258.055 is amended to read as follows:

17 If a local board of health has reason to believe or has been notified by the Cabinet for
18 Health and Family Services that there is danger that rabies may spread within the county,
19 the board shall publish a notice requiring owners of specified animals in the affected area
20 of the county to confine the animals for any periods that may be necessary to prevent the
21 spread of rabies. If it is deemed advisable in the interest of public health, the local board
22 of health shall order all specified animals in the affected area to be vaccinated against
23 rabies, except animals that have been vaccinated within the past six (6) months under the
24 provisions of KRS 258.005 to 258.087. If the local board fails or neglects to order a
25 vaccination, the Cabinet for Health and Family Services shall do so. The Cabinet for
26 Health and Family Services may aid the local health department in the execution of any
27 emergency vaccinations.

1 Section 572. KRS 258.075 is amended to read as follows:

2 The secretary for health and family services may administer the provisions of KRS
3 258.005 to 258.087 through the local health departments and may promulgate any
4 administrative regulations and employ such personnel as are necessary to effectuate the
5 purposes of KRS 258.005 to 258.087.

6 Section 573. KRS 258.085 is amended to read as follows:

7 (1) (a) A health officer or his agent shall have the authority to quarantine for a
8 period not to exceed one hundred eighty (180) days any animal bitten by
9 another animal known or suspected to have rabies, and to quarantine for a
10 period not to exceed ten (10) days any dog, cat, or ferret which has bitten a
11 human being or which exhibits symptoms of rabies.(b) In lieu of the
12 quarantines provided in paragraph (a) of this subsection, a health officer or his
13 agent may order an animal to be destroyed and tested for rabies.

14 (c) If a wild or exotic animal bites a human being or exhibits symptoms of rabies,
15 that animal shall be destroyed and tested for rabies.

16 (2) If an animal dies with rabies, is suspected of having died with rabies, or is destroyed
17 because of having been suspected of being rabid, the owner, if known, whether the
18 animal had been previously quarantined or not, shall send the head of the animal to
19 a laboratory approved by the secretary for health and family services to be tested for
20 rabies.

21 (3) (a) The owner of any animal quarantined or tested under this section shall be
22 liable for any expenses incurred as a result of the quarantine or testing.

23 (b) Any owner who destroys or disposes of an animal that has bitten a human
24 being shall be liable for any rabies postexposure treatment if the animal is
25 destroyed or disposed of in a manner that does not allow for rabies testing or
26 quarantine.

27 Section 574. KRS 258.365 is amended to read as follows:

1 Nothing in this chapter shall be construed to prohibit or limit the right of any governing
2 body to pass or enforce any ordinance with respect to the regulation of dogs or other
3 animals, the provisions of which are not inconsistent with the provisions of this chapter.
4 Nothing in this chapter shall be construed to repeal any of the provisions of the fish and
5 game laws of the Commonwealth of Kentucky now in effect, nor any laws relating to the
6 powers and duties of the secretary for health and family services, or any health officer
7 relating to rabid animals or animals affected with any disease, or to prohibit the
8 destroying of any animal in accordance with the provisions of any quarantine regulations,
9 made in accordance with the provisions of any local or state health law.

10 Section 575. KRS 260.775 is amended to read as follows:

11 As used in KRS 260.775 to 260.845, unless the context requires otherwise:

- 12 (1) "Board" means the Kentucky Milk Handlers Advisory Board;
- 13 (2) "Buy" means the receiving of milk from producers or their agents and paying for the
14 milk on the basis of volume and test, or weight and test;
- 15 (3) "Director" means the director of the Agricultural Experiment Station, College of
16 Agriculture, University of Kentucky, or his or her designee;
- 17 (4) "Handler" means any person who receives, bargains, brokers, or issues payment for
18 or purchases milk from Kentucky permitted producers or the permitted producers'
19 agents;
- 20 (5) "Laboratory" means the location or work area where milk analysis or testing takes
21 place;
- 22 (6) "Laboratory license" means the license issued to a milk laboratory;
- 23 (7) "License to handle" means the license issued to a handler of milk;
- 24 (8) "License to sample and weigh" means the license issued to a milk sampler-weigher;
- 25 (9) "License to test" means the license issued to a milk tester;
- 26 (10) "Location" means each separate business place where permitted producers' milk or
27 milk samples are received, stored, or processed, or where records pertaining to

- 1 permitted producers' milk tests or payments are kept;
- 2 (11) "Milk" means the lacteal secretion and all of its components, obtained by the
3 milking of animals;
- 4 (12) "Milk importer" means any person who delivers milk from producers outside the
5 Commonwealth of Kentucky to processors in this state;
- 6 (13) "Milk processor" means any location where milk or milk products are collected,
7 handled, processed, stored, pasteurized, bottled, or prepared for distribution by a
8 milk handler;
- 9 (14) "Milk receiving station" means any location where producers' raw farm milk is
10 collected, handled, or stored by a milk handler;
- 11 (15) "Permitted producer" means any producer issued a permit by the Kentucky Cabinet
12 for Health and Family Services to offer milk for sale;
- 13 (16) "Person" shall mean any individual, bargaining agent, broker, processor, milk plant
14 operator, partnership, cooperation, concern, corporation, organization, company,
15 firm, trustee, association, or agent thereof;
- 16 (17) "Producer" means any person keeping animals for the production of milk;
- 17 (18) "Record" means any information relating to milk weights, tests, transfers,
18 purchases, receipts, and sales;
- 19 (19) "Sampler-weigher" means any person who samples, weighs, or measures milk from
20 producers and submits these samples, weights, or measurements for use in
21 determining the price paid for milk;
- 22 (20) "Test" means to analyze a milk sample to determine the amount of a milk
23 component or to determine milk quality;
- 24 (21) "Tester" means any person who tests milk from permitted producers to determine its
25 components or quality, or submits these tests for use in determining the price paid
26 for milk;
- 27 (22) "Transfer station" means any location where farm bulk milk is transferred directly

from one (1) tank to another and producers' milk samples are collected, handled, stored, and transported to a laboratory for analysis; and

(23) "Transfer station license" means the license issued to operate a transfer station.

Section 576. KRS 260.840 is amended to read as follows:

(1) The Kentucky Milk Handlers Advisory Board shall consist of:

(a) The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture;

(b) The chair of the dairy committee of the Kentucky Farm Bureau Federation;

(c) The branch manager of the Milk Safety Branch of the Cabinet for Health and Family Services;

(d) Three (3) permitted producers or permitted producer representatives;

(e) Two (2) processors or processor representatives;

(f) One (1) sampler-weigher or sampler-weigher representative; and

(g) One (1) tester or tester representative.

The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture shall act as chair of the board.

(2) The director, or his designated representative, shall be an ex officio member and secretary to the board.

(3) (a) Each permitted producer shall be appointed by the director from a list of two (2) persons nominated by the dairy committee of the Kentucky Farm Bureau Federation. If a permitted producer becomes chair of the dairy committee of the Kentucky Farm Bureau Federation during his or her term, the dairy committee shall appoint an alternate to serve the remainder of the term of the permitted producer.

(b) Each processor shall be appointed by the director from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. If a processor becomes president of the Dairy

1 Products Association of Kentucky during his or her term, the executive
2 committee shall appoint an alternate to serve the remainder of the term of the
3 processor.

4 (c) The sampler-weigher and tester shall be at-large appointees and shall be
5 appointed by the director.

6 (4) Appointments to the board shall be for a term of three (3) years, or until their
7 successors are appointed, except that the terms of office of the members first
8 appointed shall be as follows: two (2) members shall be appointed for one (1) year,
9 two (2) members shall be appointed for two (2) years, and three (3) members shall
10 be appointed for three (3) years. The respective terms of the first members shall be
11 designated by the director at the time of their appointment. No appointed board
12 member shall serve more than two (2) consecutive terms.

13 (5) Board members not already employed by the state shall be compensated at the rate
14 of one hundred dollars (\$100) per day for board service and be reimbursed for any
15 actual expense incurred while performing board duties.

16 Section 577. KRS 304.1-120 is amended to read as follows:

17 No provision of this code shall apply to:

18 (1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle
19 29.

20 (2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as
21 identified in Subtitle 32) except as stated in Subtitle 32.

22 (3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle
23 31.

24 (4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as
25 stated in KRS Chapter 299.

26 (5) Insurance premium finance companies (as identified in Subtitle 30), except as stated
27 in Subtitle 30.

(6) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

(a) A "qualified organization" means one which is:

1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or
2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or
3. Exempt as a publicly owned or nonprofit, privately endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

(b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

(7) A religious publication (as identified in this subsection), or its subscribers, that limit their operations to those activities permitted by this subsection, and:

- (a) Is a nonprofit religious organization;
- (b) Is limited to subscribers who are members of the same denomination or religion;
- (c) Acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need;
- (d) Pays for the subscribers' financial or medical needs by payments directly from one (1) subscriber to another;

(e) Suggests amounts to give that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication; and

(f) Provides the following verbatim written disclaimer as a separate cover sheet for all documents distributed by or on behalf of the exempt entity, including all applications, guidelines, promotional or informational materials, and all periodic publications:

"This publication is not issued by an insurance company nor is it offered through an insurance company. This publication does not guarantee or promise that your medical bills will be published or assigned to others for payment.

Whether anyone chooses to pay your medical bills will be totally voluntary. This publication should never be considered as a substitute for an insurance policy.

Whether you receive any payments for medical expenses, and whether or not this publication continues to operate, you will always remain liable for any unpaid bills."

(8) A public or private ambulance service licensed and regulated by the Cabinet for Health and Family Services to the extent that it solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted ambulance services to subscription members and designated members of their households.

Section 578. KRS 304.12-013 is amended to read as follows:

(1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in

1 Kentucky on or after July 13, 1990.

2 (2) This section shall not prohibit an insurer from contesting the validity of an
3 insurance contract or whether a claim is covered under an insurance contract to the
4 extent allowed by law.

5 (3) As used in this section:

6 (a) "Human immunodeficiency virus" (HIV) means the causative agent of
7 acquired immunodeficiency syndrome (AIDS) or any other type of
8 immunosuppression caused by the human immunodeficiency virus;

9 (b) "Insurance contract" means a contract issued by an insurer as defined in this
10 section; and

11 (c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and
12 health service corporation, a health maintenance organization, or a prepaid
13 dental plan organization.

14 (4) (a) In the underwriting of an insurance contract regarding human
15 immunodeficiency virus infection and health conditions derived from such
16 infection, the insurer shall utilize medical tests which are reliable predictors of
17 risk. Only a test which is recommended by the Centers for Disease Control or
18 by the Food and Drug Administration is deemed to be reliable for the purposes
19 of this section. If a specific Centers for Disease Control or Food and Drug
20 Administration-recommended test indicates the existence or possible
21 existence of human immunodeficiency virus infection or a health condition
22 related to the human immunodeficiency virus infection, before relying on a
23 single test to deny issuance of an insurance contract, limit coverage under an
24 insurance contract, or to establish the premium for an insurance contract, the
25 insurer shall follow the applicable Centers for Disease Control or Food and
26 Drug Administration-recommended test protocol and shall utilize any
27 applicable Centers for Disease Control or Food and Drug Administration-

recommended follow-up tests or series of tests to confirm the indication.

(b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the human immunodeficiency virus infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for Health and Family Services. The notification shall include:

1. Face-to-face post-test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;
2. The availability in the geographic area of any appropriate health-care services, including mental health care, and appropriate social and support services;
3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and
4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3. of this paragraph.

(d) A medical test for human immunodeficiency virus infection or for a health condition derived from the infection shall only be required or given to an

1 applicant for an insurance contract on the basis of the applicant's health
2 condition or health history, on the basis of the amount of insurance applied
3 for, or if the test is required of all applicants.

4 (e) An insurer may ask whether an applicant for an insurance contract has been
5 tested positive for human immunodeficiency virus infection or other health
6 conditions derived from such infection. Insurers shall not inquire whether the
7 applicant has been tested for or has received a negative result from a specific
8 test for human immunodeficiency virus infection or for a health condition
9 derived from such infection.

10 (f) Insurers shall maintain strict confidentiality of the results of tests for human
11 immunodeficiency virus infection or a specific health condition derived from
12 human immunodeficiency virus infection. Information regarding specific test
13 results shall be disclosed only as required by law or pursuant to a written
14 request or authorization by the applicant. Insurers may disclose results
15 pursuant to a specific written request only to the following persons:

- 16 1. The applicant;
- 17 2. A licensed physician or other person designated by the applicant;
- 18 3. An insurance medical-information exchange under procedures that are
19 used to assure confidentiality, such as the use of general codes that also
20 cover results of tests for other diseases or conditions not related to
21 human immunodeficiency virus infection;
- 22 4. For the preparation of statistical reports that do not disclose the identity
23 of any particular applicant;
- 24 5. Reinsurers, contractually retained medical personnel, and insurer
25 affiliates if these entities are involved solely in the underwriting process
26 and under procedures that are designed to assure confidentiality;
- 27 6. To insurer personnel who have the responsibility to make underwriting

1 decisions; and

2 7. To outside legal counsel who needs the information to represent the
3 insurer effectively in regard to matters concerning the applicant.

4 (g) Insurers shall use for the processing of human immunodeficiency virus-related
5 tests only those laboratories that are certified by the United States Department
6 of Health and Human Services under the Clinical Laboratory Improvement
7 Act of 1967, which permit testing of specimens in interstate commerce, and
8 which subject themselves to ongoing proficiency testing by the College of
9 American Pathologists, the American Association of Bioanalysts, or an
10 equivalent program approved by the Centers for Disease Control.

11 (5) (a) An insurance contract shall not exclude coverage for human
12 immunodeficiency virus infection. An insurance contract shall not contain
13 benefit provisions, terms, or conditions which apply to human
14 immunodeficiency virus infection in a different manner than those which
15 apply to any other health condition. Insurance contracts which violate this
16 paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-
17 130(1)(a), 304.32-160, and 304.38-050.

18 (b) A health insurance contract shall not be canceled or nonrenewed solely
19 because a person or persons covered by the contract has been diagnosed as
20 having or has been treated for human immunodeficiency virus infection.

21 (c) Sexual orientation shall not be used in the underwriting process or in the
22 determination of which applicants shall be tested for exposure to the human
23 immunodeficiency virus infection. Neither the marital status, the living
24 arrangements, the occupation, the gender, the beneficiary designation, nor the
25 zip code or other territorial classification of an applicant's sexual orientation.

26 (d) This subsection does not prohibit the issuance of accident only or specified
27 disease insurance contracts.

1 Section 579. KRS 304.17B-003 is amended to read as follows:

2 (1) There is hereby established the Kentucky Health Care Improvement Authority as an
3 agency, instrumentality, and political subdivision of the Commonwealth and a
4 public body corporate and politic with all the powers, duties, and responsibilities
5 conferred upon it by statute and necessary or convenient to carry out its functions.
6 The authority shall be administered by a board of fifteen (15) members and is
7 created to perform the public functions of administering programs financed by the
8 funds appropriated to the authority in conformance with KRS 304.17B-001 to
9 304.17B-031 and any terms and conditions established by the General Assembly as
10 a part of the act appropriating the funds. The members of the board shall consist of
11 the following:

- 12 (a) The commissioner of the Department of Insurance, who shall serve as chair;
- 13 (b) The secretary of the Cabinet for Health and Family Services, who shall serve
14 as vice chair;
- 15 (c) Two (2) nonvoting members serving ex officio from the House of
16 Representatives, one (1) of whom shall be appointed by the Speaker of the
17 House and one (1) appointed by the minority floor leader, and who shall serve
18 a term of two (2) years;
- 19 (d) Two (2) nonvoting members serving ex officio from the Senate, one (1) of
20 whom shall be appointed by the President of the Senate and one (1) appointed
21 by the minority floor leader, and who shall serve a term of two (2) years;
- 22 (e) The deans of the University of Louisville School of Medicine and the
23 University of Kentucky College of Medicine;
- 24 (f) The commissioner of the Department for Public Health;
- 25 (g) Two (2) representatives of Kentucky health care providers, who shall be
26 appointed by the Governor; and
- 27 (h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the

1 Governor.

2 (2) The terms of office of the initial appointments of the citizen at-large members of the
3 board shall expire one (1), two (2), three (3), and four (4) years respectively from
4 the expiration date of the initial appointment. One (1) of the initial terms of the
5 representatives of health care providers, at least one (1) of whom shall be male and
6 at least one (1) of whom shall be female, shall be for two (2) years and one (1) shall
7 be for four (4) years. All succeeding appointments shall be for four (4) years from
8 the expiration date of the term of the initial appointment. Two (2) of the citizens at
9 large shall be male and two (2) shall be female. Board members shall serve until
10 their successors are appointed.

11 (3) In making private sector and citizen-at-large appointments to the board, the
12 Governor shall assure broad geographical and ethnic representation as well as
13 representation from consumers and the major sectors of Kentucky's health care and
14 health insurance businesses. Private sector and citizen-at-large members shall serve
15 without compensation but shall be reimbursed for reasonable and necessary
16 expenses.

17 (4) The authority shall establish priorities for programs and the expenditure of funds,
18 establish procedures for accountability, and develop mechanisms to measure the
19 success of programs that receive allocated funds in accordance with any criteria or
20 instructions provided by the General Assembly. The authority shall be attached to
21 the Department of Insurance for administrative purposes and shall establish
22 advisory boards it deems appropriate, which shall consist of health insurance
23 consumers, health care providers, and insurance company representatives, to assist
24 with oversight of fund expenditures.

25 (5) Grants and funds obtained under KRS 304.17B-001 to 304.17B-031 shall be used
26 for expenditures as follows:

27 (a) Seventy percent (70%) of all moneys in the fund shall be placed into the

- 1 Kentucky Access fund for the purpose of funding Kentucky Access;
- 2 (b) Twenty percent (20%) of all moneys in the fund shall be spent on a
3 collaborative partnership between the University of Louisville and the
4 University of Kentucky dedicated to lung cancer research; and
- 5 (c) Ten percent (10%) of all moneys in the fund shall be used to discourage the
6 use of harmful substances by minors.
- 7 (6) The authority shall assure that a public hearing is held on the expenditure of funds
8 allocated under this section, except for funds allocated to the Kentucky Access
9 fund. Advertisement of the public hearing shall be published at least once but may
10 be published two (2) more times, if one (1) publication occurs not less than seven
11 (7) days nor more than twenty-one (21) days before the scheduled date of the public
12 hearing. The authority shall submit an annual report to the Governor and the
13 General Assembly indicating how the funds were used and an evaluation of the
14 program's effectiveness in health care and access to health insurance for Kentucky
15 residents.
- 16 (7) Neither the authority nor its employees shall be liable for any obligations of any of
17 the programs established under KRS 304.17B-001 to 304.17B-031. No member or
18 employee of the authority shall be liable, and no cause of action of any nature may
19 arise against them, for any act or omission related to the performance of their
20 powers and duties under KRS 304.17B-001 to 304.17B-031, unless the act or
21 omission constitutes willful or wanton misconduct. The authority may provide in its
22 policies and procedures for indemnification of, and legal representation for, its
23 members and employees.
- 24 (8) The authority shall have all the powers necessary or convenient to carry out and
25 effectuate the purposes and provisions of KRS 304.17B-001 to 304.17B-031,
26 including, but not limited to, retaining the staff it deems necessary for the proper
27 performance of its duties.

- 1 (9) The authority shall meet at least quarterly and at other times upon call of the chair
2 or a majority of the authority.

3 Section 580. KRS 304.40-075 is amended to read as follows:

- 4 (1) As used in this section, unless the context requires otherwise:

5 (a) "Charitable health care provider" means any person, agency, clinic, or facility
6 licensed or certified by the Commonwealth, or under a comparable provision
7 of law of another state, territory, district, or possession of the United States,
8 engaged in the rendering of medical care or dentistry without compensation or
9 charge, and without expectation of compensation or charge, to the individual,
10 without payment or reimbursement by any governmental agency or insurer.

11 "Charitable health care provider" means those persons, agencies, clinics, or
12 facilities providing primary care medicine and performing no invasive or
13 surgical procedures, and those persons, agencies, clinics, or facilities
14 providing services within the dentist's scope of practice under KRS Chapter
15 313;

16 (b) "Medical malpractice insurer" means every person or entity engaged as
17 principal and as indemnitor, surety, or contractor in the business of entering
18 into contracts to provide medical professional liability insurance, except an
19 entity in the business of providing such medical professional liability
20 insurance only to itself or its affiliated subsidiary, or parent corporation, or
21 subsidiaries of its parent corporations; and

22 (c) "Medical professional liability insurance" means insurance to cover liability
23 incurred as a result of the hands-on providing of medical professional services
24 directly to patients by an insured in the treatment, diagnosis, or prevention of
25 patient illness, disease, or injury.

- 26 (2) Insurers offering medical professional liability insurance in the Commonwealth
27 shall make available, as a condition of doing business in the Commonwealth

pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;
2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;
3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;
4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed;
5. A copy of the registration filed with the Cabinet for Health and Family Services under KRS 216.941; and
6. A copy of the medical malpractice policy, declaration page, and any other documentation the commissioner may deem necessary to determine the proper amount of premiums and taxes to be reimbursed.

- 1 (c) Persons insured under this section shall be required to comply with the same
2 risk management and loss prevention policies which the insurer imposes upon
3 its other insureds.
- 4 (d) Any premium refund for medical professional liability insurance issued under
5 subsection (2) of this section received for any reason by the charitable health
6 care provider shall be promptly remitted to the department for transmittal to
7 the general fund.
- 8 (4) This section shall only apply to charitable health care providers and persons
9 volunteering to perform medical services for charitable health care providers who
10 are not otherwise covered by any policy of medical professional liability insurance
11 for the charitable health care services provided, and that meet the terms for
12 eligibility established pursuant to this section.
- 13 (5) Coverage offered to charitable health care providers and persons volunteering at
14 charitable health care providers shall be at least as broad as the coverage offered by
15 the insurer to other noncharitable health care providers or facilities and to medical
16 professionals working at noncharitable health care facilities.
- 17 (6) The Department of Insurance shall retrospectively review on an annual basis the
18 premiums paid pursuant to this section as opposed to the expenses incurred by the
19 insurers covering risks under this section to determine if the profits made for those
20 risks were consistent with reasonable loss ratio guidelines. If the determination is
21 made that the profits were not consistent with reasonable loss ratio guidelines, the
22 Department of Insurance shall determine the amount of the premiums to be
23 refunded to the Commonwealth.
- 24 (7) The Cabinet for Health and Family Services shall make available to the
25 Department of Insurance information on its registration of charitable health care
26 providers for the purpose of obtaining medical malpractice insurance.
- 27 (8) The Department of Insurance shall not provide medical malpractice insurance as

1 specified in subsection (3)(a) of this section to a charitable health care provider who
2 has not registered with the Cabinet for Health and Family Services under KRS
3 216.941.

4 Section 581. KRS 311.241 is amended to read as follows:

5 (1) Each hospital licensed under the provisions of KRS Chapter 216B shall, as a
6 condition of licensure, establish an organ-procurement-for-transplant protocol, in
7 consultation with a federally certified organ procurement organization, which
8 encourages organ donation and identifies potential organ donors.

9 (2) When an individual has died or has been identified by a medical hospital staff
10 member as having a terminal condition and is further identified as a potential organ
11 donor and meets the criteria set forth in the hospital's organ-procurement-for-
12 transplant protocol, the hospital administrator or his official designee shall then
13 notify the federally certified organ procurement organization of the potential
14 availability of the organ. The notification of the federally certified organ
15 procurement organization as to the identity of a potential organ donor shall be
16 documented in such patient's medical record. Any identified contraindication to
17 organ donation shall be documented in the patient's medical record.

18 (3) Any hospital licensed under the provisions of KRS Chapter 216B which performs
19 any transplantable organ transplant shall report to the Cabinet for Health and
20 Family Services, Office of the Inspector General, any information relating to the
21 possible sale, purchase, or brokering of a transplantable organ.

22 Section 582. KRS 311.250 is amended to read as follows:

23 No itinerant medical company of two (2) or more persons shall travel as a troupe or
24 company as vendors of any drug, nostrum, or instrument intended for the treatment of any
25 disease or injury, or by any writing or printing profess to the public to treat disease or
26 deformity by the use of any drug, nostrum, or instrument without first obtaining a license
27 from the secretary for health and family services. The fee for such license shall be one

1 hundred dollars (\$100) per month. The secretary shall issue licenses to reputable and
2 worthy applicants upon payment of the fee each month, but may for sufficient cause
3 refuse to issue such license.

4 Section 583. KRS 311.282 is amended to read as follows:

5 (1) A physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally
6 liable for the disclosure of otherwise confidential information under the following
7 circumstances:

8 (a) If a patient of the physician has tested positive for human immunodeficiency
9 virus discloses to the physician the identity of a spouse or sexual partner with
10 whom the patient has cohabitated for more than one (1) year; and

11 (b) The physician recommends the patient notify the spouse or sexual partner of
12 the positive test and refrain from engaging in sexual activity in a manner
13 likely to transmit the virus and the patient refuses;

14 (c) If, pursuant to a perceived civil duty or the ethical guidelines of the
15 profession, the physician reasonably and in good faith advises the spouse of
16 the patient or sexual partner with whom the patient has cohabitated for more
17 than one (1) year of the positive test and facts concerning the transmission of
18 the virus; and

19 (d) The physician reports information about HIV status to the Cabinet for Health
20 and Family Services pursuant to administrative regulations promulgated by
21 the cabinet.

22 (2) Notwithstanding the foregoing, a physician licensed pursuant to KRS Chapter 311
23 shall not be civilly or criminally liable for failure to disclose information relating to
24 a positive test result for human immunodeficiency virus of a patient to a spouse.

25 Section 584. KRS 311.378 is amended to read as follows:

26 (1) All physicians licensed pursuant to this chapter who maintain a private office shall
27 post in a prominent place in the patient waiting room a printed sign supplied by the

Cabinet for Health and Family Services that is at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high and with gender-neutral language, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

- (2) Any person who violates the provisions of subsection (1) of this section shall be subject to a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50).

Section 585. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human

1 conditions, ailments, diseases, injuries, or infirmities by any and all means,
2 methods, devices, or instrumentalities;

3 (11) The "practice of medicine or osteopathy" does not include the practice of Christian
4 Science, the domestic administration of family remedies, the rendering of first aid
5 or medical assistance in an emergency in the absence of a person licensed to
6 practice medicine or osteopathy under the provisions of this chapter, the use of
7 automatic external defibrillators in accordance with the provisions of KRS 311.665
8 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a
9 midlevel health care practitioner as defined in KRS 216.900, the practice of
10 dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS
11 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015,
12 the practice as a nurse as defined in KRS 314.011, the practice of physical therapy
13 as defined in KRS 327.010, the performance of duties for which they have been
14 trained by paramedics licensed under KRS Chapter 311A, first responders, or
15 emergency medical technicians certified under Chapter 311A, the practice of
16 pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs,
17 nostrums, patented or proprietary medicines, trusses, supports, spectacles,
18 eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended,
19 advertised, or represented as being for the treatment, correction, cure, or relief of
20 any human ailment, disease, injury, infirmity, or condition, in regular mercantile
21 establishments, or the practice of midwifery by women. KRS 311.530 to 311.620
22 shall not be construed as repealing the authority conferred on the Cabinet for Health
23 and Family Services by KRS Chapter 211 to provide for the instruction,
24 examination, licensing, and registration of all midwives through county health
25 officers;

26 (12) "Physician" means a doctor of medicine or a doctor of osteopathy;

27 (13) "Grievance" means any allegation in whatever form alleging misconduct by a

- 1 physician;
- 2 (14) "Charge" means a specific allegation alleging a violation of a specified provision of
- 3 this chapter;
- 4 (15) "Complaint" means a formal administrative pleading that sets forth charges against
- 5 a physician and commences a formal disciplinary proceeding;
- 6 (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those
- 7 crimes which have dishonesty as a fundamental and necessary element, including
- 8 but not limited to crimes involving theft, embezzlement, false swearing, perjury,
- 9 fraud, or misrepresentation;
- 10 (17) "Telehealth" means the use of interactive audio, video, or other electronic media to
- 11 deliver health care. It includes the use of electronic media for diagnosis,
- 12 consultation, treatment, transfer of medical data, and medical education;
- 13 (18) "Order" means a direction of the board or its panels made or entered in writing that
- 14 determines some point or directs some step in the proceeding and is not included in
- 15 the final order;
- 16 (19) "Agreed order" means a written document that includes but is not limited to
- 17 stipulations of fact or stipulated conclusions of law that finally resolves a grievance,
- 18 a complaint, or a show cause order issued informally without expectation of further
- 19 formal proceedings in accordance with KRS 311.591(6);
- 20 (20) "Final order" means an order issued by the hearing panel that imposes one (1) or
- 21 more disciplinary sanctions authorized by this chapter;
- 22 (21) "Letter of agreement" means a written document that informally resolves a
- 23 grievance, a complaint, or a show cause order and is confidential in accordance with
- 24 KRS 311.619;
- 25 (22) "Letter of concern" means an advisory letter to notify a physician that, although
- 26 there is insufficient evidence to support disciplinary action, the board believes the
- 27 physician should modify or eliminate certain practices and that the continuation of

- 1 those practices may result in action against the physician's license;
- 2 (23) "Motion to revoke probation" means a pleading filed by the board alleging that the
3 licensee has violated a term or condition of probation and that fixes a date and time
4 for a revocation hearing;
- 5 (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter
6 13B to determine whether the licensee has violated a term or condition of probation;
- 7 (25) "Chronic or persistent alcoholic" means an individual who is suffering from a
8 medically diagnosable disease characterized by chronic, habitual, or periodic
9 consumption of alcoholic beverages resulting in the interference with the
10 individual's social or economic functions in the community or the loss of powers of
11 self-control regarding the use of alcoholic beverages;
- 12 (26) "Addicted to a controlled substance" means an individual who is suffering from a
13 medically diagnosable disease characterized by chronic, habitual, or periodic use of
14 any narcotic drug or controlled substance resulting in the interference with the
15 individual's social or economic functions in the community or the loss of powers of
16 self-control regarding the use of any narcotic drug or controlled substance;
- 17 (27) "Provisional permit" means a temporary permit issued to a licensee engaged in the
18 active practice of medicine within this Commonwealth who has admitted to
19 violating any provision of KRS 311.595 that permits the licensee to continue the
20 practice of medicine until the board issues a final order on the registration or
21 reregistration of the licensee;
- 22 (28) "Fellowship training license" means a license to practice medicine or osteopathy in
23 a fellowship training program as specified by the license; and
- 24 (29) "Special faculty license" means a license to practice medicine that is limited to
25 instruction as part of an accredited medical school program or osteopathic school
26 program and any affiliated institution for which the medical school or osteopathic
27 school has assumed direct responsibility.

1 Section 586. KRS 311.623 is amended to read as follows:

- 2 (1) An adult with decisional capacity may make a written living will directive that does
3 any or all of the following:
- 4 (a) Directs the withholding or withdrawal of life-prolonging treatment; or
 - 5 (b) Directs the withholding or withdrawal of artificially provided nutrition or
6 hydration; or
 - 7 (c) Designates one (1) or more adults as a surrogate or successor surrogate to
8 make health care decisions on behalf of the grantor. During any period in
9 which two (2) or more surrogates are serving, all decisions shall be by
10 unanimous consent of all the acting surrogates unless the advance directive
11 provides otherwise; or
 - 12 (d) Directs the giving of all or any part of the adult's body upon death for any
13 purpose specified in KRS 311.185.
- 14 (2) Except as provided in KRS 311.633, a living will directive made pursuant to this
15 section shall be honored by a grantor's family, regular family physician or attending
16 physician, and any health care facility of or in which the grantor is a patient.
- 17 (3) For purposes of KRS 311.621 to 311.643, notification to any emergency medical
18 responder as defined by KRS Chapter 211 or any paramedic as defined by KRS
19 Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized
20 only if on a standard form or identification approved by the Kentucky Board of
21 Medical Licensure, in consultation with the Cabinet for Health and Family
22 Services.

23 Section 587. KRS 311.720 is amended to read as follows:

24 As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context
25 otherwise requires:

- 26 (1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy
27 of a woman known to be pregnant with intent to cause fetal death;

- 1 (2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky
2 pursuant to the provisions of KRS Chapter 216;
- 3 (3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must
4 give their consent shall mean an informed consent expressed by a written agreement
5 to submit to an abortion on a written form of consent to be promulgated by the
6 secretary for health and family services;
- 7 (4) "Cabinet" shall mean the Cabinet for Health and Family Services of the
8 Commonwealth of Kentucky;
- 9 (5) "Fetus" shall mean a human being from fertilization until birth;
- 10 (6) "Human being" shall mean any member of the species homo sapiens from
11 fertilization until death;
- 12 (7) "Partial-birth abortion" shall mean an abortion in which the physician performing
13 the abortion partially vaginally delivers a living fetus before killing the fetus and
14 completing the delivery;
- 15 (8) "Vaginally delivers a living fetus before killing the fetus" shall mean deliberately
16 and intentionally delivers into the vagina a living fetus, or a substantial portion
17 thereof, for the purpose of performing a procedure the physician knows will kill the
18 fetus, and kills the fetus;
- 19 (9) "Physician" shall mean any person licensed to practice medicine in the
20 Commonwealth or osteopathy pursuant to the provisions of this chapter;
- 21 (10) "Viability" shall mean that stage of human development when the life of the unborn
22 child may be continued by natural or life-supportive systems outside the womb of
23 the mother;
- 24 (11) "Accepted medical procedures" shall mean procedures of the type performed in the
25 manner and in a facility with equipment sufficient to meet the standards of medical
26 care which physicians engaged in the same or similar lines of work, would
27 ordinarily exercise and devote to the benefit of their patients;

1 (12) "Medical emergency" means any condition which, on the basis of the physician's
 2 good faith clinical judgment, so complicates the medical condition of a pregnant
 3 female as to necessitate the immediate abortion of her pregnancy to avert her death
 4 or for which a delay will create serious risk of substantial and irreversible
 5 impairment of a major bodily function;

6 (13) "Medical necessity" means a medical condition of a pregnant woman that, in the
 7 reasonable judgment of the physician who is attending the woman, so complicates
 8 the pregnancy that it necessitates the immediate performance or inducement of an
 9 abortion; and

10 (14) "Probable gestational age of the embryo or fetus" means the gestational age that, in
 11 the judgment of a physician, is, with reasonable probability, the gestational age of
 12 the embryo or fetus at the time that the abortion is planned to be performed.

13 Section 588. KRS 311.732 is amended to read as follows:

14 (1) For purposes of this section the following definitions shall apply:

15 (a) "Minor" means any person under the age of eighteen (18);

16 (b) "Emancipated minor" means any minor who is or has been married or has by
 17 court order or otherwise been freed from the care, custody, and control of her
 18 parents; and

19 (c) "Abortion" means the use of any instrument, medicine, drug, or any other
 20 substance or device with intent to terminate the pregnancy of a woman known
 21 to be pregnant with intent other than to increase the probability of a live birth,
 22 to preserve the life or health of the child after live birth, or to remove a dead
 23 fetus.

24 (2) No person shall perform an abortion upon a minor unless:

25 (a) The attending physician or his agent secured the informed written consent of
 26 the minor and one (1) parent or legal guardian;

27 (b) The minor is emancipated and the attending physician or his agent has

1 received the informed written consent of the minor; or

2 (c) The minor elects to petition any Circuit or District Court of the
3 Commonwealth pursuant to subsection (3) of this section and obtain an order
4 pursuant to subsection (4) of this section granting consent to the abortion and
5 the attending physician or his agent has received the informed written consent
6 of the minor.

7 (3) Every minor shall have the right to petition any Circuit or District Court of the
8 Commonwealth for an order granting the right to self-consent to an abortion
9 pursuant to the following procedures:

10 (a) The minor or her next friend may prepare and file a petition setting forth the
11 request of the minor for an order of consent to an abortion;

12 (b) The court shall insure that the minor prepares or her next friend is given
13 assistance in preparing and filing the petition and shall insure that the minor's
14 identity is kept anonymous;

15 (c) The minor may participate in proceedings in the court on her own behalf or
16 through her next friend and the court shall appoint a guardian ad litem for her.
17 The court shall advise her that she has a right to court-appointed counsel and
18 shall provide her with such counsel upon her request;

19 (d) All proceedings under this section shall be anonymous and shall be given
20 preference over other matters to insure that the court may reach a decision
21 promptly, but in no case shall the court fail to rule within seventy-two (72)
22 hours of the time of application, provided that the seventy-two (72) hour
23 limitation may be extended at the request of the minor; and

24 (e) The court shall hold a hearing on the merits of the petition before reaching a
25 decision. The court shall hear evidence at the hearing relating to the emotional
26 development, maturity, intellect, and understanding of the minor; the nature,
27 possible consequences, and alternatives to the abortion; and any other

1 evidence that the court may find useful in determining whether the minor
2 should be granted majority rights for the purpose of consenting to the abortion
3 or whether the abortion is in the best interest of the minor.

4 (4) The court shall enter a written order, making specific factual findings and legal
5 conclusions supporting its decision as follows:

6 (a) Granting the petition for an abortion if the court finds that the minor is mature
7 and well informed enough to make the abortion decision on her own;

8 (b) Granting consent to the abortion if the court finds that the performance of the
9 abortion would be in the minor's best interest; or

10 (c) Deny the petition, if the court finds that the minor is immature and that
11 performance of the abortion would not be in the minor's best interest.

12 (5) Any minor shall have the right of anonymous and expedited appeal to the Court of
13 Appeals, and that court shall give precedence over other pending matters.

14 (6) No fees shall be required of any minor who declares she has no sufficient funds to
15 pursue the procedures provided by this section.

16 (7) The Supreme Court is respectfully requested to promulgate any rules and
17 regulations it feels are necessary to ensure that proceedings under this section are
18 handled in an expeditious and anonymous manner.

19 (8) The requirements of subsections (2), (3), and (4) of this section shall not apply
20 when, in the best medical judgment of the physician based on the facts of the case
21 before him, a medical emergency exists that so complicates the pregnancy as to
22 require an immediate abortion. A physician who does not comply with subsection
23 (2), (3), or (4) of this section due to the utilization of this exception shall certify in
24 writing the medical indications upon which his judgment was based.

25 (9) A report indicating the basis for any medical judgment that warrants failure to
26 obtain consent pursuant to this section shall be filed with the Cabinet for Health and
27 Family Services on a form supplied by the cabinet. This report shall be confidential.

1 (10) Failure to obtain consent pursuant to the requirements of this section is prima facie
2 evidence of failure to obtain informed consent and of interference with family
3 relations in appropriate civil actions. The law of this state shall not be construed to
4 preclude the award of exemplary damages in any appropriate civil action relevant to
5 violations of this section. Nothing in this section shall be construed to limit the
6 common-law rights of parents.

7 Section 589. KRS 311.935 is amended to read as follows:

8 (1) No later than one (1) year after July 13, 1984, the McDowell Cancer Network, Inc.,
9 and the James Graham Brown Cancer Center shall jointly develop and submit to the
10 Cabinet for Health and Family Services and may periodically update a standardized
11 written summary, in layman's language and in language understood by the patient,
12 of the advantages, disadvantages, risks, and descriptions of all medically efficacious
13 and viable alternatives for the treatment of breast cancer.

14 (2) The Cabinet for Health and Family Services, within ninety (90) days of receipt of
15 the summary, shall print and make available to all licensed physicians in the
16 Commonwealth sufficient copies of the standardized written summary for
17 distribution by such physicians to their patients.

18 (3) Upon receipt of the summary, any physician licensed under the laws of the
19 Commonwealth who treats a patient for any form of breast cancer shall provide the
20 patient with a standardized written summary, as provided under this section,
21 informing the patient of medically efficacious and viable alternative methods of
22 treatment for breast cancer which may include surgical, radiological, or
23 chemotherapeutic treatment or combinations thereof.

24 Section 590. KRS 311.990 is amended to read as follows:

25 (1) Any person who violates KRS 311.250 shall be guilty of a violation.

26 (2) Any college or professor thereof violating the provisions of KRS 311.300 to
27 311.350 shall be civilly liable on his bond for a sum not less than one hundred

- 1 dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation,
2 which may be recovered by an action in the name of the Commonwealth.
- 3 (3) Any person who presents to the county clerk for the purpose of registration any
4 license which has been fraudulently obtained, or obtains any license under KRS
5 311.380 to 311.510 by false or fraudulent statement or representation, or practices
6 podiatry under a false or assumed name or falsely impersonates another practitioner
7 or former practitioner of a like or different name, or aids and abets any person in the
8 practice of podiatry within the state without conforming to the requirements of KRS
9 311.380 to 311.510, or otherwise violates or neglects to comply with any of the
10 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.
11 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to
12 311.510 shall be considered a separate offense.
- 13 (4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent
14 violation of KRS 311.560 shall constitute a Class D felony.
- 15 (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under
16 this subsection of a holder of a license or permit shall result automatically in
17 permanent revocation of such license or permit.
- 18 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or
19 interfering with the board or any of its members, or of any officer, agent, inspector,
20 or investigator of the board or the Cabinet for Health and Family Services, in the
21 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class
22 A misdemeanor.
- 23 (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a
24 Class B misdemeanor, and, for each subsequent offense shall be a Class A
25 misdemeanor.
- 26 (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a
27 violation, and, for each subsequent offense, be a Class B misdemeanor.

- 1 (9) Each day of violation of either subsection of KRS 311.375 shall constitute a
2 separate offense.
- 3 (10) (a) Any person who intentionally or knowingly performs an abortion contrary to
4 the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
5 (b) Any person who intentionally, knowingly, or recklessly violates the
6 requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- 7 (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS
8 311.765 shall be guilty of a Class D felony. However, a physician shall
9 not be guilty of the criminal offense if the partial-birth abortion was
10 necessary to save the life of the mother whose life was endangered by a
11 physical disorder, illness, or injury.
- 12 2. A physician may seek a hearing before the State Board of Medical
13 Licensure on whether the physician's conduct was necessary to save the
14 life of the mother whose life was endangered by a physical disorder,
15 illness, or injury. The board's findings, decided by majority vote of a
16 quorum, shall be admissible at the trial of the physician. The board shall
17 promulgate administrative regulations to carry out the provisions of this
18 subparagraph.
- 19 3. Upon a motion of the physician, the court shall delay the beginning of
20 the trial for not more than thirty (30) days to permit the hearing, referred
21 to in subparagraph 2. of this paragraph, to occur.
- 22 (b) Any person other than a physician who performs a partial-birth abortion shall
23 not be prosecuted under this subsection but shall be prosecuted under
24 provisions of law which prohibit any person other than a physician from
25 performing any abortion.
- 26 (c) No penalty shall be assessed against the woman upon whom the partial-birth
27 abortion is performed or attempted to be performed.

- 1 (12) Any person who intentionally performs an abortion with knowledge that, or with
2 reckless disregard as to whether, the person upon whom the abortion is to be
3 performed is an unemancipated minor, and who intentionally or knowingly fails to
4 conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- 5 (13) Any person who negligently releases information or documents which are
6 confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- 7 (14) Any person who performs an abortion upon a married woman either with
8 knowledge or in reckless disregard of whether KRS 311.735 applies to her and who
9 intentionally, knowingly, or recklessly fails to conform to the requirements of KRS
10 311.735 shall be guilty of a Class D felony.
- 11 (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- 12 (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- 13 (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D
14 felony.
- 15 (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- 16 (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- 17 (20) Any professional medical association or society, licensed physician, or hospital or
18 hospital medical staff who shall have violated the provisions of KRS 311.606 shall
19 be guilty of a Class B misdemeanor.
- 20 (21) Any administrator, officer, or employee of a publicly owned hospital or publicly
21 owned health care facility who performs or permits the performance of abortions in
22 violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- 23 (22) Any person who violates KRS 311.914 shall be guilty of a violation.
- 24 (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A
25 misdemeanor.
- 26 (24) (a) Any person who fails to test organs, skin, or other human tissue which is to be
27 transplanted, or violates the confidentiality provisions required by KRS

1 311.281, shall be guilty of a Class A misdemeanor;

2 (b) Any person who has human immunodeficiency virus infection, who knows he
3 is infected with human immunodeficiency virus, and who has been informed
4 that he may communicate the infection by donating organs, skin, or other
5 human tissue who donates organs, skin, or other human tissue shall be guilty
6 of a Class D felony.

7 (25) Any person who sells or makes a charge for any transplantable organ shall be guilty
8 of a Class D felony.

9 (26) Any person who offers remuneration for any transplantable organ for use in
10 transplantation into himself shall be fined not less than five thousand dollars
11 (\$5,000) nor more than fifty thousand dollars (\$50,000).

12 (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty
13 of a Class C felony.

14 (28) Any person charging a fee associated with the transplantation of a transplantable
15 organ in excess of the direct and indirect costs of procuring, distributing, or
16 transplanting the transplantable organ shall be fined not less than fifty thousand
17 dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).

18 (29) Any hospital performing transplantable organ transplants which knowingly fails to
19 report the possible sale, purchase, or brokering of a transplantable organ shall be
20 fined not less than ten thousand dollars (\$10,000) or more than fifty thousand
21 dollars (\$50,000).

22 Section 591. KRS 311.991 is amended to read as follows:

23 Any person who manufactures, distributes, sells, or prescribes amygdalin (laetrile) in
24 violation of the standards established by the secretary of the Cabinet for Health **and**
25 **Family** Services shall be punished by a fine of not less than five hundred dollars (\$500)
26 and not more than two thousand dollars (\$2,000), or by imprisonment in the county jail
27 for a period not to exceed six (6) months, or both. Each day of violation shall constitute a

1 separate offense.

2 Section 592. KRS 311A.010 is amended to read as follows:

3 As used in this chapter, unless the context otherwise requires:

- 4 (1) "Ambulance" means a vehicle which has been inspected and approved by the board,
5 including a helicopter or fixed-wing aircraft, except vehicles or aircraft operated by
6 the United States government, that are specially designed, constructed, or have been
7 modified or equipped with the intent of using the same, for the purpose of
8 transporting any individual who is sick, injured, or otherwise incapacitated who
9 may require immediate stabilization or continued medical response and intervention
10 during transit or upon arrival at the patient's destination to safeguard the patient's
11 life or physical well-being;
- 12 (2) "Ambulance provider" means any individual or private or public organization,
13 except the United States government, who is licensed by the board to provide
14 medical transportation services at either basic life support level or advanced life
15 support level and who may have a vehicle or vehicles, including ground vehicles,
16 helicopters, or fixed-wing aircraft to provide such transportation. An ambulance
17 provider may be licensed as an air ambulance provider, as a Class I ground
18 ambulance provider, as a Class II ground ambulance provider, or as a Class III
19 ground ambulance provider;
- 20 (3) "Board" means the Kentucky Board of Emergency Medical Services;
- 21 (4) "Emergency medical facility" means a hospital or any other institution licensed by
22 the Cabinet for Health and Family Services that furnishes emergency medical
23 services;
- 24 (5) "Emergency medical services" means the services utilized in providing care for the
25 perceived individual need for immediate medical care to protect against loss of life,
26 or aggravation of physiological or psychological illness or injury;
- 27 (6) "Emergency Medical Services for Children Program" or "EMSC Program" means

- 1 the program established under this chapter;
- 2 (7) "Emergency medical services personnel" means persons, certified or licensed, and
3 trained to provide emergency medical services, and an authorized emergency
4 medical services medical director, whether on a paid or volunteer basis;
- 5 (8) "Emergency medical services system" means a coordinated system of health-care
6 delivery that responds to the needs of acutely sick and injured adults and children,
7 and includes community education and prevention programs, centralized access and
8 emergency medical dispatch, communications networks, trained emergency medical
9 services personnel, medical first response, ground and air ambulance services,
10 trauma care systems, mass casualty management, medical direction, and quality
11 control and system evaluation procedures;
- 12 (9) "Emergency medical services training or educational institution" means any person
13 or organization which provides emergency medical services training or education or
14 in-service training, other than a licensed ambulance service which provides training,
15 or in-service training in-house for its own employees or volunteers;
- 16 (10) "Emergency medical technician" or "EMT" means a person certified under this
17 chapter as an EMT-basic, EMT-basic instructor, or EMT-instructor trainer;
- 18 (11) "First responder" means a person certified under this chapter as a first responder or
19 first responder instructor;
- 20 (12) "Emergency medical services medical director" means a physician licensed in
21 Kentucky who is employed by, under contract to, or has volunteered to provide
22 supervision for a paramedic or an ambulance service, or both;
- 23 (13) "Paramedic" means a person who is involved in the delivery of medical services and
24 is licensed under this chapter;
- 25 (14) "Paramedic course coordinator" means a person certified under this chapter to
26 coordinate a paramedic course. A paramedic course coordinator shall not practice as
27 a paramedic unless they are also licensed as a paramedic;

1 (15) "Paramedic preceptor" means a licensed paramedic who supervises a paramedic
2 student during the field portion of the student's training;

3 (16) "Prehospital care" means the provision of emergency medical services or
4 transportation by trained and certified or licensed emergency medical services
5 personnel at the scene or while transporting sick or injured persons to a hospital or
6 other emergency medical facility; and

7 (17) "Trauma" means a single or multisystem life-threatening or limb-threatening injury
8 requiring immediate medical or surgical intervention or treatment to prevent death
9 or permanent disability.

10 Section 593. KRS 311A.020 is amended to read as follows:

11 (1) The board shall:

12 (a) Exercise all of the administrative functions of the state not regulated by the
13 Board of Medical Licensure or Cabinet for Health and Family Services in the
14 regulation of the emergency medical services system and the practice of first
15 responders, emergency medical technicians, paramedics, ambulance services,
16 and emergency medical services training institutions;

17 (b) Issue any licenses or certifications authorized by this chapter;

18 (c) Oversee the operations and establish the organizational structure of the Office
19 of the Kentucky Board of Emergency Medical Services, which is created and
20 shall be attached to the board for administrative purposes. The office shall be
21 headed by the executive director appointed under paragraph (d) of this
22 subsection and shall be responsible for:

23 1. Personnel and budget matters affecting the board;

24 2. Fiscal activities of the board, including grant writing and disbursement
25 of funds;

26 3. Information technology, including the design and maintenance of
27 databases;

4. Certification and recertification of first responders;
5. Certification and recertification of emergency medical technicians;
6. Licensure and relicensure of ambulances and ambulance services;
7. Licensure and relicensure of paramedics;
8. Certification and recertification of paramedic course coordinators;
9. Investigation of and resolution of quality complaints and ethics issues;
and
10. Other responsibilities that may be assigned to the executive director by
the board;

(d) Employ an executive director and deputy executive director and fix the compensation. The executive director and deputy executive director shall serve at the pleasure of the board, administer the day-to-day operations of the Office of the Kentucky Board of Emergency Medical Services, and supervise all directives of the board. The director and deputy executive director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration or in the administration of an emergency medical services program;

(e) Employ or contract with a physician licensed in Kentucky who is board certified in emergency medicine and fix the compensation. The physician shall serve at the pleasure of the board and as the medical advisor to the Kentucky Board of Emergency Medical Services and the staff of the board;

(f) Employ or contract with a general counsel licensed to practice law in Kentucky and fix the compensation. The general counsel shall serve at the pleasure of the board;

(g) Employ personnel sufficient to carry out the statutory responsibilities of the board.

1. Personnel assigned to investigate a first responder program complaint or

- 1 regulate the first responder programs shall be certified first responders,
2 emergency medical technicians, or licensed paramedics.
- 3 2. Personnel assigned to investigate an emergency medical technician
4 program complaint or regulate the emergency medical technician
5 program shall be certified emergency medical technicians or paramedics.
- 6 3. Personnel assigned to investigate a paramedic program complaint or
7 regulate the paramedic program shall be licensed paramedics.
- 8 4. A person who is employed by the board who is licensed or certified by
9 the board shall retain his or her license or certification if he or she meets
10 the in-service training requirements and pays the fees specified by
11 administrative regulation.
- 12 5. A person who is employed by the board may instruct in emergency
13 medical subjects in which he or she is qualified, with the permission of
14 the board. All instruction shall be rendered without remuneration other
15 than his or her state salary and the employee shall be considered as on
16 state duty when teaching.
- 17 6. A person who is employed by the board may render services for which
18 the person is qualified at a declared disaster or emergency or in a
19 situation where trained personnel are not available until those personnel
20 arrive to take over the patient, or where insufficient trained personnel are
21 available to handle a specific emergency medical incident. All aid shall
22 be rendered without remuneration other than the employee's state salary
23 and the employee shall be considered as on state duty when rendering
24 aid. In cases specified in this paragraph, the state medical advisor shall
25 serve as the emergency medical services medical director for the
26 employee;
- 27 (h) Establish committees and subcommittees and the membership thereof.

1 Members of committees and subcommittees do not need to be members of the
2 board;

3 (i) Enter into contracts, apply for grants and federal funds, and disburse funds to
4 local units of government as approved by the General Assembly. All funds
5 received by the board shall be placed in a trust and agency account in the State
6 Treasury subject to expenditure by the board;

7 (j) Administer the Emergency Medical Services for Children Program; and

8 (k) Establish minimum curriculum and standards for emergency medical services
9 training.

10 (2) The board may utilize materials, services, or facilities as may be made available to it
11 by other state agencies or may contract for materials, services, or facilities.

12 (3) The board may delegate to the executive director, by written order, any function
13 other than promulgation of an administrative regulation specified in this chapter.

14 (4) Except for securing funding for trauma centers and the implementation of KRS
15 311A.170, the board shall not regulate a trauma center.

16 Section 594. KRS 311A.115 is amended to read as follows:

17 The Kentucky Board of Emergency Medical Services shall, by regulation, require an
18 applicant for licensure as a paramedic to have completed a board or Cabinet for Health
19 **and Family** Services-approved educational course on the transmission, control, treatment
20 and prevention of the human immunodeficiency virus and acquired immunodeficiency
21 syndrome with an emphasis on appropriate behavior and attitude change. The board shall
22 require continuing education that updates this training at least one (1) time every ten (10)
23 years that is consistent with and as required for other health care providers under KRS
24 214.610.

25 Section 595. KRS 313.254 is amended to read as follows:

26 (1) The board may grant a temporary license to a dentist or dental hygienist who holds a
27 currently valid license from another state, district, possession, or territory of the

1 United States for the sole purpose of providing medical care to indigent populations
2 who may not otherwise be able to obtain such services, without expectation of
3 compensation or charge to the individual, and without payment or reimbursement
4 by any governmental agency or insurer. The health care services shall be provided
5 to charitable organizations only. The license shall be valid for a seven (7) day
6 period.

7 (2) To obtain the temporary license issued under subsection (1) of this section, the
8 dentist or dental hygienist shall:

9 (a) Apply to the Board of Dentistry at least thirty (30) days prior to providing the
10 health care services under subsection (1) of this section;

11 (b) Include in the application a letter from the jurisdiction in which the dentist or
12 dental hygienist is licensed that indicates the applicant's license number and a
13 statement that indicates that the dentist or the dental hygienist is in good
14 standing in the licensing jurisdiction; and

15 (c) Pay a twenty-five dollar (\$25) registration fee.

16 (3) Prior to beginning the services permitted under subsection (1) of this section, the
17 dentist or dental hygienist shall notify the appropriate agent in the Cabinet for
18 Health and Family Services.

19 (4) A dentist or dental hygienist working under this section may perform all preventive
20 procedures and treatments including but not limited to scaling, prophylaxis,
21 radiographs, sealants, and fluoride application.

22 (5) In addition to the procedures permitted under subsection (4) of this section, a dentist
23 may perform those procedures or treatments considered to be routine in nature and
24 that are typically performed and completed in one (1) appointment. The procedures
25 include simple extractions and basic restorative procedures. All procedures
26 performed other than those provided in this subsection and subsection (4) of this
27 section shall be performed by a dentist holding a currently valid license in the

1 Commonwealth.

2 (6) A dentist or dental hygienist working under this section who registers as a charitable
3 health care provider under KRS 216.941 shall be eligible for the provision of
4 medical malpractice insurance procured under KRS 304.40-075.

5 (7) The board shall promulgate administrative regulations that are reasonably necessary
6 to administer this section.

7 Section 596. KRS 314.077 is amended to read as follows:

8 (1) Notwithstanding any provision of law to the contrary, upon receipt of a notice from
9 the Cabinet for **Health and Family Services**~~[Families and Children]~~ that a nurse is
10 in violation of KRS 205.712, the board shall issue an order suspending the nurse's
11 license. If the individual is an applicant for licensure, the board shall issue a denial
12 of licensure. The order shall constitute disciplinary action against the nurse or
13 individual.

14 (2) Suspension of a license or denial of licensure under subsection (1) of this section
15 shall continue until the Cabinet for **Health and Family Services**~~[Families and~~
16 ~~Children]~~ notifies the board that the nurse or individual is no longer in violation of
17 KRS 205.712.

18 (3) A nurse shall not be entitled to a hearing before the board on a suspension of a
19 license in child support cases administered by the Cabinet for **Health and Family**
20 **Services**~~[Families and Children]~~ in accordance with 42 U.S.C. secs. 651 et seq.

21 (4) To reinstate a license suspended under this section, a nurse shall comply with all
22 reinstatement requirements.

23 Section 597. KRS 315.035 is amended to read as follows:

24 (1) No person shall operate a pharmacy without having first obtained a permit as
25 provided for in KRS Chapter 315. An application for a permit to operate a
26 pharmacy shall be made to the board upon forms provided by it and shall contain
27 such information as the board requires, which may include affirmative evidence of

1 ability to comply with such reasonable standards and rules and regulations as may
2 be prescribed by the board. Each application shall be accompanied by a reasonable
3 permit fee to be set by administrative regulation promulgated by the board pursuant
4 to KRS Chapter 13A, not to exceed two hundred fifty dollars (\$250).

5 (2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by
6 the permit fee not to exceed two hundred fifty dollars (\$250), the board shall issue a
7 permit if the pharmacy meets the standards and requirements of KRS Chapter 315
8 and the rules and regulations of the board. The board shall refuse to renew any
9 permit to operate unless the pharmacy meets the standards and requirements of KRS
10 Chapter 315 and the rules and regulations of the board. The board shall act upon an
11 application for a permit to operate within thirty (30) days after the receipt thereof;
12 provided, however, that the board may issue a temporary permit to operate in any
13 instance where it considers additional time necessary for investigation and
14 consideration before taking final action upon the application. In such event, the
15 temporary permit shall be valid for a period of thirty (30) days, unless extended.

16 (3) A separate permit to operate shall be required for each pharmacy.

17 (4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall
18 expire on June 30 following its date of issuance and be renewable annually
19 thereafter upon proper application accompanied by such reasonable renewal fee as
20 may be set by administrative regulation of the board, not to exceed two hundred
21 fifty dollars (\$250) nor to increase more than twenty-five dollars (\$25) per year. An
22 additional fee not to exceed the annual renewal fee may be assessed as a penalty for
23 failure to renew by August 1 of each year.

24 (5) Permits to operate shall be issued only for the premises and persons named in the
25 application and shall not be transferable; provided however, that a buyer may
26 operate the pharmacy under the permit of the seller pending a decision by the board
27 of an application which shall be filed by the buyer with the board at least five (5)

1 days prior to the date of sale.

- 2 (6) The board may promulgate rules and regulations to assure that proper equipment
3 and reference material is on hand considering the nature of the pharmaceutical
4 practice conducted at the particular pharmacy and to assure reasonable health and
5 sanitation standards for areas within pharmacies which are not subject to health and
6 sanitation standards promulgated by the Kentucky Cabinet for Health and Family
7 Services or a local health department.

8 Section 598. KRS 315.121 is amended to read as follows:

- 9 (1) The board may refuse to issue or renew a license, permit, or certificate to, or may
10 suspend, temporarily suspend, revoke, fine, place on probation, reprimand,
11 reasonably restrict, or take any combination of these actions against any licensee,
12 permit holder, or certificate holder for the following reasons:

13 (a) Unprofessional or unethical conduct;

14 (b) Mental or physical incapacity that prevents the licensee, permit holder, or
15 certificate holder from engaging in the practice of pharmacy or the wholesale
16 distribution or manufacturing of drugs with reasonable skill, competence, and
17 safety to the public;

18 (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to,
19 irrespective of an order granting probation or suspending imposition of any
20 sentence imposed following the conviction or entry of such plea, one (1) or
21 more or the following:

22 1. A felony;

23 2. An act involving moral turpitude or gross immorality; or

24 3. A violation of the pharmacy or drug laws, rules, or administrative
25 regulations of this state, any other state, or the federal government;

26 (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or
27 pharmacy technician is incapable of engaging or assisting in the practice of

- 1 pharmacy with reasonable skill, competence, and safety to the public and
2 failing to report any relevant information to the board;
- 3 (e) Knowingly making or causing to be made any false, fraudulent, or forged
4 statement or misrepresentation of a material fact in securing issuance or
5 renewal of a license, permit, or certificate;
- 6 (f) Engaging in fraud in connection with the practice of pharmacy or the
7 wholesale distribution or manufacturing of drugs;
- 8 (g) Engaging in or aiding and abetting an individual to engage in the practice of
9 pharmacy without a license or falsely using the title of "pharmacist,"
10 "pharmacist intern," or other term which might imply that the individual is a
11 pharmacist or pharmacist intern;
- 12 (h) Being found by the board to be in violation of any provision of this chapter,
13 KRS Chapter 217, KRS Chapter 218A, or the administrative regulations
14 promulgated pursuant to these chapters;
- 15 (i) Violation of any order issued by the board to comply with any applicable law
16 or administrative regulation; or
- 17 (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or
18 pharmacy technician has engaged in or aided and abetted the unlawful
19 distribution of legend medications, and failing to report any relevant
20 information to the board.
- 21 (2) Unprofessional or unethical conduct includes but is not limited to the following acts
22 of a pharmacist or pharmacist intern:
- 23 (a) Publication or circulation of false, misleading, or deceptive statements
24 concerning the practice of pharmacy;
- 25 (b) Divulging or revealing to unauthorized persons patient information or the
26 nature of professional services rendered without the patient's express consent
27 or without order or direction of a court. In addition to members, inspectors, or

agents of the board, the following are considered authorized persons:

1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;
2. Certified or licensed health-care personnel who are responsible for care of the patient;
3. Designated agents of the Cabinet for Health and Family Services for the purposes of enforcing the provisions of KRS Chapter 218A;
4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or
5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;

(c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist or pharmacy intern knows or should have known of their intended use in illegal activities;

(d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;

(e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;

(f) Selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;

(g) Willfully or knowingly failing to maintain complete and accurate records of

- 1 all drugs received, dispensed, or disposed of in compliance with federal and
2 state laws, rules, or administrative regulations;
- 3 (h) Obtaining any remuneration by fraud, misrepresentation, or deception;
- 4 (i) Accessing or attempting to access confidential patient information for persons
5 other than those with whom a pharmacist has a current pharmacist-patient
6 relationship and where such information is necessary to the pharmacist to
7 provide pharmacy care; or
- 8 (j) Failing to exercise appropriate professional judgment in determining whether
9 a prescription drug order is lawful.
- 10 (3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading
11 nolo contendere, or who is found guilty of a violation prescribed in subsection
12 (1)(c) of this section shall within thirty (30) days notify the board of that plea or
13 conviction. Failure to do so shall be grounds for suspension or revocation of the
14 license, certificate, or permit.
- 15 (4) Any person whose license, permit, or certificate has been revoked in accordance
16 with the provisions of this section, may petition the board for reinstatement. The
17 petition shall be made in writing and in a form prescribed by the board. The board
18 shall investigate all reinstatement petitions, and the board may reinstate a license,
19 permit, or certificate upon showing that the former holder has been rehabilitated and
20 is again able to engage in the practice of pharmacy with reasonable skill,
21 competency, and safety to the public. Reinstatement may be on the terms and
22 conditions that the board, based on competent evidence, reasonably believes
23 necessary to protect the health and welfare of the citizens of the Commonwealth.
- 24 (5) Upon exercising the power of revocation provided for in subsection (1) of this
25 section, the board may reasonably prohibit any petition for reinstatement for a
26 period up to and including five (5) years.
- 27 (6) Any licensee, permit holder, or certificate holder who is disciplined under this

1 section for a minor violation may request in writing that the board expunge the
2 minor violation from the licensee's, permit holder's, or certificate holder's
3 permanent record.

4 (a) The request for expungement may be filed no sooner than three (3) years after
5 the date on which the licensee, permit holder, or certificate holder has
6 completed disciplinary sanctions imposed and if the licensee, permit holder, or
7 certificate holder has not been disciplined for any subsequent violation of the
8 same nature within this period of time.

9 (b) No person may have his or her record expunged under this section more than
10 once.

11 The board shall promulgate administrative regulations under KRS Chapter 13A to
12 establish violations which are minor violations under this subsection. A violation
13 shall be deemed a minor violation if it does not demonstrate a serious inability to
14 practice the profession; adversely affect the public health, safety, or welfare; or
15 result in economic or physical harm to a person, or create a significant threat of such
16 harm.

17 Section 599. KRS 317.440 is amended to read as follows:

18 (1) To protect the health and safety of the public or to protect the public against
19 misrepresentation, deceit, or fraud in the practice or teaching of barbering, the board
20 shall promulgate administrative regulations:

21 (a) Governing the location and housing of barber shops or schools;

22 (b) Governing the quantity and quality of equipment, supplies, materials, records,
23 and furnishings required in barber shops or schools;

24 (c) Governing the training and supervision of barber apprentices;

25 (d) Governing the qualifications of teachers of barbering;

26 (e) Governing the hours and courses of instruction at barber schools;

27 (f) Governing the examinations of applicants for barber, apprentice barber, or

1 teacher of barbering.

2 (2) The board shall establish fees by administrative regulation according to the
3 schedules established in KRS 317.450.

4 (3) Administrative regulations pertaining to health and sanitation shall be approved by
5 the Kentucky secretary for health and family services before becoming effective.

6 Section 600. KRS 318.134 is amended to read as follows:

7 (1) No person, firm, or corporation shall:

8 (a) Construct, install, or alter, or cause to be constructed, installed, or altered, any
9 plumbing without first having procured a plumbing installation permit
10 therefor from the department;

11 (b) Use or continue to use, or permit the use or continued use of, any plumbing
12 constructed, installed, or altered under a plumbing installation permit issued
13 therefor where the department through a duly authorized inspector, employee,
14 or agent, finds that the plumbing was not constructed, installed, or altered in
15 accordance with such permit and the Kentucky State Plumbing Code.

16 (2) All applications for plumbing installation permits shall be accompanied by plans
17 and specifications of the proposed plumbing installation, location, and construction
18 of the water supply system to be used. If an on-site sewage disposal system that
19 does not have a surface discharge is proposed, a valid on-site sewage disposal
20 permit issued by the Cabinet for Health and Family Services or its designated agent
21 shall accompany the application.

22 (3) The department shall fix a reasonable schedule of fees and charges to be paid for
23 plumbing installation permits and the necessary inspections incident thereto. The
24 department shall also fix a reasonable schedule of fees and charges to be paid for
25 necessary inspections of the construction, installation, or alteration of plumbing in
26 public buildings.

27 Section 601. KRS 318.160 is amended to read as follows:

1 Except as otherwise provided by law or by regulation of the department, no person shall
2 construct, install, or extensively alter any plumbing, sewerage, or water supply system of
3 any public building or establishment without having first obtained the approval of the
4 department in writing. Detailed plans and specifications of the proposed facility showing
5 the plumbing system, sewage disposal system, and water supply system shall be
6 submitted to the department prior to the construction or alteration of the facility. In the
7 event no public sewer is available, the plan shall include the proposed type of sewage
8 disposal system. In the event a sewage subsoil drainage system is used, or some other
9 type of on-site sewage disposal system that does not have a surface discharge, the
10 application for construction, installation, or alteration of such system shall be submitted
11 to the Cabinet for Health and Family Services or its designated agent. All other plans and
12 specifications shall be submitted in triplicate to the department. The department shall
13 notify the applicant in writing of the approval or disapproval of the plans. The
14 construction, installation, or alteration shall be done in accordance with the approved
15 plans.

16 Section 602. KRS 333.020 is amended to read as follows:

17 As used in this chapter unless the context clearly indicates otherwise, the following terms
18 shall have the meanings set forth below:

- 19 (1) "Person" means any individual, firm, partnership, association, corporation,
20 municipality, political subdivision, or any other entity whether organized for profit
21 or not;
- 22 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 23 (3) "Medical laboratory" means any institution, building, place, or any other facility in
24 which operations and procedures for the microbiological, serological, chemical,
25 hematological, immunohematological, biophysical, cytological, pathological, or
26 other methods of examination of tissues including blood, secretions, and excretions
27 of the human body are performed to obtain information in diagnosing, preventing,

1 or treating disease, or in which the results of any examination, determination, or test
2 are used as a basis for health advice. These activities include the diagnosis and
3 identification of disease by the examination of tissues removed by surgery and also
4 the determination of cause of death by the examination of tissues removed at
5 autopsy. The term "clinical laboratory" shall be deemed synonymous with the term
6 "medical laboratory," and includes laboratories operated and maintained exclusively
7 for teaching purposes;

8 (4) "Medical laboratory director" means the individual who is responsible for the
9 administrative, scientific, and technical operation of the medical laboratory,
10 including supervision of laboratory procedures, reporting of findings, and active
11 participation to such extent as may be necessary to assure compliance with the law.
12 He shall be responsible for the proper performance of all work in the laboratory and
13 shall direct, supervise, and be responsible for the work of subordinates;

14 (5) "Medical laboratory supervisor" means an individual who, under the general
15 supervision of a medical laboratory director, supervises technical personnel,
16 performs tests requiring special scientific skills, experience, and educational
17 background, and, in the absence of the director, is held responsible for the proper
18 performance of all medical laboratory procedures and the reporting of results;

19 (6) "Medical laboratory technologist" means an individual who performs tests which
20 require the exercise of independent judgment and responsibility, with minimal
21 supervision by the director or supervisor, in only those specialties or subspecialties
22 in which they are qualified by education, training, and experience;

23 (7) "Medical laboratory technician" means any individual other than the medical
24 laboratory director, supervisor, technologist, or trainee who functions under the
25 supervision of a medical laboratory director, supervisor, or technologist and
26 performs only those medical laboratory procedures which require limited skill,
27 responsibility, and a minimal exercise of independent judgment;

- 1 (8) "Medical laboratory trainee" means any individual in a medical laboratory who is
 2 seeking training and experience which, combined with the appropriate educational
 3 background, will qualify that person for employment as a "medical technologist" or
 4 "medical laboratory technician." Trainees may perform procedures under the direct
 5 supervision of the laboratory director, supervisor, or medical technologist;
- 6 (9) "Medical laboratory personnel" includes the medical laboratory director, supervisor,
 7 technologist, or technician, but does not include medical laboratory assistants,
 8 trainees, or other individuals employed by a medical laboratory to perform clerical
 9 or other administrative responsibilities;
- 10 (10) "Medical laboratory evaluation program" means a program for evaluating the
 11 proficiency of medical laboratories by the cabinet; and
- 12 (11) "Medical laboratory advisory committee" shall mean a group of consultants
 13 appointed by the secretary for health and family services or his designee to advise
 14 the cabinet on matters relating to the regulation of medical laboratories.
- 15 Section 603. KRS 333.040 is amended to read as follows:
- 16 This chapter applies to all medical laboratories within the State of Kentucky, except:
- 17 (1) Medical laboratories operated by the United States government;
- 18 (2) Medical laboratories operated by a licensed physician, or a group of licensed
 19 physicians, solely and exclusively in connection with the diagnosis and treatment of
 20 their own patients; if any referred work is received or performed by such medical
 21 laboratories, all provisions of this chapter shall apply;
- 22 (3) Medical laboratories operated by hospitals licensed by the secretary for health and
 23 family services;
- 24 (4) Medical laboratories operated and maintained exclusively for research purposes,
 25 involving no patient or public health service whatsoever; and
- 26 (5) Medical laboratories operated by facilities holding a permit pursuant to KRS
 27 315.035 and holding a valid certification issued pursuant to the Clinical Laboratory

1 Improvement Act of 1988 (CLIA), as amended, solely and exclusively in
2 connection with assisting a patient with the use of CLIA-waived tests available
3 from the facility's stock or inventory, and in connection with testing and treatment
4 of patients covered under collaborative care agreements established under KRS
5 315.010 and other applicable laws. If any referred work is received or performed by
6 these medical laboratories, all provisions of this chapter shall apply.

7 Section 604. KRS 333.220 is amended to read as follows:

8 The secretary for health and family services shall appoint an advisory committee to
9 advise the cabinet in the fulfillment of its responsibilities under this chapter. The
10 committee shall be composed of nine (9) appointed members. The secretary for health
11 and family services or his designated representative shall be an ex officio member. All
12 appointed members shall serve for a term of four (4) years or until their successors are
13 appointed and qualified. One (1) member shall be appointed from a list of three (3) names
14 submitted by the Kentucky Hospital Association. One (1) member shall be appointed
15 from a list of three (3) names submitted by the Kentucky State Society of American
16 Medical Technologists. Two (2) members shall be appointed from a list of three (3)
17 names for each position submitted by the Kentucky State Society of Medical
18 Technologists. Five (5) members shall be appointed from a list of three (3) names for
19 each position submitted by the Kentucky Medical Association, provided, however, that at
20 least three (3) of such positions shall be filled only by pathologists who are directors of
21 medical laboratories, and who have been recommended to the Kentucky Medical
22 Association by the Kentucky Society of Pathologists.

23 Section 605. KRS 334.140 is amended to read as follows:

- 24 (1) There is created the Kentucky Licensing Board for Specialists in Hearing
25 Instruments.
- 26 (2) The board shall be composed of nine (9) members who shall be appointed by the
27 Governor. Terms of office shall be at the Governor's discretion, not to exceed four

years. All terms shall expire on July 31 of the designated year. Each member shall serve for the term of his appointment and until his successor has been appointed and qualified. If a vacancy occurs on the board, a new member shall be appointed to serve out the unexpired term. No member shall serve consecutive terms on the board. Upon recommendation of the board, the Governor may remove any member of the board for excessive absenteeism, neglect of duty, or malfeasance in office.

(3) Five (5) members shall be specialists in hearing instruments licensed under KRS 334.080. The appointees shall have at least five (5) years' relevant experience. The Governor shall consider nominations from the Hearing Aid Association of Kentucky. No two (2) members from the same place of business may serve on the board at the same time.

(4) One (1) member shall be a physician licensed to practice medicine in Kentucky and specializing in otology or otolaryngology.

(5) One (1) member shall be an audiologist holding at least a master's degree from a recognized college or university and having the certification of clinical competence in audiology from the American Speech-Language-Hearing Association and licensed under KRS Chapter 334A.

(6) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

(7) One (1) member shall be the secretary of the Cabinet for Health and Family Services or his designee.

(8) Five (5) members of the nine (9) members of the board, when properly convened, may conduct the business of the board.

Section 606. KRS 336.090 is amended to read as follows:

(1) The department shall be furnished with a copy of all the laws and rulings of the secretary for health and family services affecting sanitary conditions in places of employment, not covered by the labor laws of the state, and shall report in writing

1 to the state, county, or city health authorities any violations coming under the
2 observation of its inspectors while visiting places of employment in the regular
3 performance of their duty.

- 4 (2) The inspectors shall be furnished with a copy of all the laws and rulings of the
5 Department of Housing, Buildings and Construction relating to fire hazards in
6 places of employment, and shall report in writing to the state, county, or city
7 authorities any violations coming under their observation while visiting places of
8 employment in the regular performance of their duty.

9 Section 607. KRS 337.285 is amended to read as follows:

- 10 (1) No employer shall employ any of his employees for a work week longer than forty
11 (40) hours, unless such employee receives compensation for his employment in
12 excess of forty (40) hours in a work week at a rate of not less than one and one-half
13 (1-1/2) times the hourly wage rate at which he is employed.

- 14 (2) This provision shall not apply to the following:

- 15 (a) Employees of retail stores engaged in work connected with selling,
16 purchasing, and distributing merchandise, wares, goods, articles, or
17 commodities;
18 (b) Employees of restaurant, hotel, and motel operations;
19 (c) Employees as defined and exempted from the overtime provision of the Fair
20 Labor Standards Act in Sections 213(b)(1), 213(b)(6), 213(b)(10), and
21 213(b)(17) of Title 29, U.S.C.;
22 (d) Employees whose function is to provide twenty-four (24) hour residential care
23 on the employer's premises in a parental role to children who are primarily
24 dependent, neglected, and abused and who are in the care of private nonprofit
25 childcaring facilities licensed by the Cabinet for Health and Family Services
26 under KRS 199.640 to 199.670; or
27 (e) Any individual who is employed by a third-party employer or agency other

1 than the family or household using his or her services to provide in-home
2 companionship services for a sick, convalescing, or elderly person.

3 (3) As used in subsection (2) of this section, "companionship services" means those
4 services which provide in-home fellowship, care, and protection for a person who,
5 because of advanced age or physical or mental infirmity, cannot care for his or her
6 own needs. These services may include household work related to the care of the
7 aged or infirm person such as meal preparation, bed making, washing of clothes,
8 and other similar services. They may also include the performance of general
9 household work, provided that the household work is incidental, i.e., does not
10 exceed twenty percent (20%) of the total weekly hours worked. The term
11 "companionship services" does not include services relating to the care and
12 protection of the aged or infirm which require and are performed by trained
13 personnel, such as a registered or practical nurse.

14 (4) Notwithstanding the provisions of subsection (1) of this section or any other chapter
15 of the KRS to the contrary, upon written request by a county employee, made freely
16 and without coercion, pressure, or suggestion by the employer, and upon a written
17 agreement reached between the employer and the county employee before the
18 performance of the work, a county employee who is authorized to work one (1) or
19 more hours in excess of the prescribed hours per week may be granted
20 compensatory leave on an hour-for-hour basis. Upon the written request by a county
21 employee, made freely and without coercion, pressure, or suggestion by the
22 employer, and upon a written agreement reached between the employer and the
23 county employee before the performance of the work, a county employee who is not
24 exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. et
25 seq., may be granted compensatory time in lieu of overtime pay, at the rate of not
26 less than one and one-half (1-1/2) hours for each hour the county employee is
27 authorized to work in excess of forty (40) hours in a work week.

- 1 (5) (a) Upon the request of the county employee, and as provided in subsection (4) of
2 this section, compensatory time shall be awarded as follows:
- 3 1. A county employee who provided work in excess of forty (40) hours in a
4 public safety activity, an emergency response activity, or a seasonal
5 activity as described in 29 C.F.R. sec. 553.24, may accrue not more than
6 four hundred eighty (480) hours of compensatory time; or
- 7 2. A county employee engaged in other work in excess of forty (40) hours,
8 may accrue not more than two hundred forty (240) hours of
9 compensatory time.
- 10 (b) A county employee who has accrued four hundred eighty (480) hours of
11 compensatory time off pursuant to paragraph (a)1. of this subsection, or two
12 hundred forty (240) hours of compensatory time off pursuant to paragraph
13 (a)2. of this subsection, shall for additional overtime hours of work, be paid
14 overtime compensation.
- 15 (6) A county employee who has accrued compensatory time off as provided in
16 subsection (4) of this section, and who requested the use of compensatory time,
17 shall be permitted by the employer to use the compensatory time within a
18 reasonable period after making the request if the use of the compensatory time does
19 not unduly disrupt the operations of the employer. Mere inconvenience to the
20 employer shall not constitute a sufficient basis for denial of a county employee's
21 request for compensatory time off.
- 22 (7) If compensation is paid to a county employee for accrued compensatory time off,
23 the compensation shall be paid at the regular rate earned by the county employee at
24 the time the county employee receives the payment.
- 25 (8) Upon a county employee's termination of employment, all unused accrued
26 compensatory time shall be paid at a rate of compensation not less than:
- 27 (a) The average regular rate received by the county employee during the last three

1 (3) years of the county employee's employment; or

2 (b) The final regular rate received by the county employee, whichever is higher.

3 (9) Compensatory time shall not be used as a means to avoid statutory overtime
4 compensation. A county employee shall have the right to use compensatory time
5 earned and shall not be coerced to accept more compensatory time than an employer
6 can realistically and in good faith expect to be able to grant within a reasonable
7 period upon the county employee making the request for compensatory time off.

8 (10) Nothing in subsections (4) to (9) of this section shall be construed to supersede any
9 collective bargaining agreement, memorandum of understanding, or any other
10 agreement between the employer and representative of the county employees.

11 (11) As used in subsections (4) to (9) of this section, "county employee" means an
12 employee of any county, charter county, consolidated local government, or urban-
13 county government, including an employee of a county elected official.

14 Section 608. KRS 338.041 is amended to read as follows:

15 (1) There is hereby created in the Department of Workplace Standards a Program for
16 Occupational Safety and Health. This program shall consist of a Division of
17 Occupational Safety and Health Compliance and a Division of Education and
18 Training for Occupational Safety and Health. This program shall administer all
19 matters pertaining to occupational safety and occupational health and shall be under
20 the supervision of an occupational safety and health coordinator. The secretary of
21 the Labor Cabinet shall appoint the occupational safety and health coordinator.

22 (2) The Department of Workplace Standards may require the assistance of other state
23 agencies and may enter into agreements with other state agencies and political
24 subdivisions of the Commonwealth for the administration of this chapter.

25 (3) The Department of Workplace Standards may enter into an agreement with the
26 Cabinet for Health and Family Services and other appropriate departments or
27 agencies to conduct research, experiments, and demonstrations relating to

1 occupational safety and health, including studies of psychological factors involved,
2 and relating to innovative methods, techniques, and approaches for dealing with
3 occupational safety and health problems in the administration of this chapter.

4 Section 609. KRS 339.230 is amended to read as follows:

5 A minor who has passed his fourteenth birthday but is under eighteen (18) years of age
6 may be employed, permitted, or suffered to work in, about, or in connection with any
7 gainful occupation, except:

8 (1) If he is under sixteen (16) years of age, he may not be employed during regular
9 school hours, unless:

10 (a) The school authorities have made arrangements for him to attend school at
11 other than the regular hours, in which event he may be employed subject to
12 regulations of the commissioner of workplace standards during such of the
13 regular school hours as he is not required to be in attendance under the
14 arrangement; or,

15 (b) He has graduated from high school.

16 (2) A minor who has passed his fourteenth birthday but is under eighteen (18) years of
17 age, may not be employed, permitted, or suffered to work:

18 (a) In any place of employment or at any occupation, that the commissioner of
19 workplace standards shall determine to be hazardous or injurious to the life,
20 health, safety, or welfare of such minor;

21 (b) More than the number of days per week, nor more than the number of hours
22 per day that the commissioner of workplace standards shall determine to be
23 injurious to the life, health, safety, or welfare of such minor. The
24 commissioner of workplace standards in promulgating these regulations may
25 make them more restrictive than those promulgated by the United States
26 Secretary of Labor under provisions of the Fair Labor Standards Act and its
27 amendments, but in no event may he make them less restrictive;

1 (c) During the hours of the day that the commissioner of workplace standards
2 shall determine to be injurious to the life, health, safety, or welfare of such
3 minor. The commissioner of workplace standards in promulgating these
4 regulations may make them more restrictive than those promulgated by the
5 United States Secretary of Labor under provisions of the Fair Labor Standards
6 Act and its amendments but in no event may he make them less restrictive;
7 and

8 (d) In, about, or in connection with any establishment where alcoholic liquors are
9 distilled, rectified, compounded, brewed, manufactured, bottled, sold for
10 consumption, or dispensed unless permitted by the rules and regulations of the
11 Alcoholic Beverage Control Board (except he may be employed in places
12 where the sale of alcoholic beverages by the package is merely incidental to
13 the main business actually conducted); or in a pool or billiard room.

14 (3) The commissioner of workplace standards shall promulgate regulations to properly
15 protect the life, health, safety, or welfare of minors. He may consider sex, age,
16 premises of employment, substances to be worked with, machinery to be operated,
17 number of hours, hours of the day, nature of the employment, and other pertinent
18 factors. The commissioner of workplace standards in promulgating these
19 regulations may make them more restrictive than those promulgated by the United
20 States Secretary of Labor under provisions of the Fair Labor Standards Act and its
21 amendments but in no event may he make them less restrictive, provided, however,
22 these regulations shall have no effect on the definition of "gainful occupation" under
23 KRS 339.210. To advise the commissioner with respect to the regulations, the
24 Governor shall appoint a committee of four (4) persons which shall consist of a
25 representative from the Cabinet for Health and Family Services, the Department of
26 Education, the Kentucky Commission on Human Rights and the Personnel Cabinet.
27 The regulations promulgated in accordance with this section shall be reviewed by

1 such committee whenever deemed necessary by the commissioner of workplace
2 standards.

3 Section 610. KRS 341.067 is amended to read as follows:

4 As used in this chapter, unless the context clearly requires otherwise:

- 5 (1) "Hospital" means an institution which has been licensed, certified, or approved by
6 the secretary for health and family services as a hospital;
- 7 (2) "Institution of higher education" means an educational institution which:
 - 8 (a) Admits as regular students only individuals having a certificate of graduation
9 from a high school, or the recognized equivalent of such a certificate;
 - 10 (b) Is legally authorized in this state to provide a program of education beyond
11 high school;
 - 12 (c) Provides an educational program for which it awards a bachelor's or higher
13 degree, or provides a program which is acceptable for full credit toward such a
14 degree, a program of postgraduate or postdoctoral studies, or a program of
15 training to prepare students for gainful employment in a recognized
16 occupation; and
 - 17 (d) Is a public or other nonprofit institution;
- 18 (3) Notwithstanding any of the foregoing provisions of this section, all recognized
19 colleges and universities in this state are institutions of higher education for
20 purposes of this chapter; and
- 21 (4) (a) "Educational institution," including an institution of higher education as
22 defined in subsection (2) of this section, means:
 - 23 1. A school in which participants, trainees, or students are offered an
24 organized course of study or training designed to transfer to them
25 knowledge, skills, information, doctrines, attitudes or abilities from, by,
26 or under the guidance of an instructor or teacher;
 - 27 2. It is approved, licensed, or issued a permit to operate as a school by the

1 State Department of Education or other government agency that is
2 authorized within the state to approve, license, or issue a permit for the
3 operation of a school; and

4 3. The courses of study or training which it offers may be academic,
5 technical, trade, or preparation for gainful employment in a recognized
6 occupation.

7 (b) In any particular case, the question of whether or not an institution is an
8 educational institution within the meaning of the criteria described above will
9 depend on what that particular institution actually does.

10 Section 611. KRS 342.315 is amended to read as follows:

11 (1) The commissioner shall contract with the University of Kentucky and the
12 University of Louisville medical schools to evaluate workers who have had injuries
13 or become affected by occupational diseases covered by this chapter. Referral for
14 evaluation may be made to one (1) of the medical schools whenever a medical
15 question is at issue.

16 (2) The physicians and institutions performing evaluations pursuant to this section shall
17 render reports encompassing their findings and opinions in the form prescribed by
18 the commissioner. Except as otherwise provided in KRS 342.316, the clinical
19 findings and opinions of the designated evaluator shall be afforded presumptive
20 weight by administrative law judges and the burden to overcome such findings and
21 opinions shall fall on the opponent of that evidence. When administrative law
22 judges reject the clinical findings and opinions of the designated evaluator, they
23 shall specifically state in the order the reasons for rejecting that evidence.

24 (3) The commissioner or an administrative law judge may, upon the application of any
25 party or upon his own motion, direct appointment by the commissioner, pursuant to
26 subsection (1) of this section, of a medical evaluator to make any necessary medical
27 examination of the employee. Such medical evaluator shall file with the

- 1 commissioner within fifteen (15) days after such examination a written report. The
2 medical evaluator appointed may charge a reasonable fee not exceeding fees
3 established by the commissioner for those services.
- 4 (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer
5 or carrier shall pay the cost of the examination. Upon notice from the commissioner
6 that an evaluation has been scheduled, the insurance carrier shall forward within
7 seven (7) days to the employee the expenses of travel necessary to attend the
8 evaluation at a rate equal to that paid to state employees for travel by private
9 automobile while conducting state business.
- 10 (5) Upon claims in which it is finally determined that the injured worker was not the
11 employee at the time of injury of an employer covered by this chapter, the special
12 fund shall reimburse the carrier for any evaluation performed pursuant to this
13 section for which the carrier has been erroneously compelled to make payment.
- 14 (6) Not less often than annually the designee of the secretary of the Cabinet for Health
15 and Family Services shall assess the performance of the medical schools and render
16 findings as to whether evaluations conducted under this section are being rendered
17 in a timely manner, whether examinations are conducted in accordance with
18 medically recognized techniques, whether impairment ratings are in conformity
19 with standards prescribed by the latest edition available of the "Guides to the
20 Evaluation of Permanent Impairment" published by the American Medical
21 Association, and whether coal workers' pneumoconiosis examinations are
22 conducted in accordance with the standards prescribed in this chapter.
- 23 (7) The General Assembly finds that good public policy mandates the realization of the
24 potential advantages, both economic and effectual, of the use of telemedicine and
25 telehealth. The commissioner may, to the extent that he finds it feasible and
26 appropriate, require the use of telemedicine and telehealth practices, as authorized
27 under KRS 11.550, in the independent medical evaluation process required by this

chapter.

Section 612. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and

(d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.

(2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the board may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the board can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the Cabinet for Health and Family Services.

Section 613. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for Health and Family Services and the Education, Arts, and Humanities Cabinet and the chief state school officer shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include

1 provisions for:

- 2 (a) Identification and prompt and adequate interdisciplinary assessment;
- 3 (b) Case management services; and
- 4 (c) Services and residential alternatives as defined by this chapter in the least
- 5 restrictive, individually appropriate environment.

6 (2) The first plan and annual updates shall be presented to the Legislative Research
7 Commission which shall refer it to an appropriate committee for review and
8 comment.

9 (3) The plan shall include:

- 10 (a) The number of institution residents on waiting lists for placement in the
- 11 community;
- 12 (b) The number of persons outside institutions on waiting lists for placement in
- 13 the institution;
- 14 (c) The number of persons for whom no placement is made nor services provided
- 15 because of a lack of community resources;
- 16 (d) The number, type, nature, and cost of services necessary for placement to
- 17 occur;
- 18 (e) The status of compliance with the plan;
- 19 (f) The cabinets' specific efforts to increase residential and institutional services
- 20 and documentation of the success of these efforts; and
- 21 (g) The specific plans for new efforts to enhance the opportunities for persons
- 22 with developmental disabilities to move into less restrictive environments.

23 (4) The state health plan shall be developed consistently with the plan required under
24 this chapter.

25 Section 614. KRS 347.050 is amended to read as follows:

26 The Cabinet for Health and Family Services, the Education, Arts, and Humanities
27 Cabinet, and the Department of Education shall promulgate and implement rules and

1 regulations for the:

2 (1) Enhancement and protection of the rights of persons receiving services and active
3 treatment in both the public and private sectors under this chapter, including, but
4 not limited to, the right to:

5 (a) Provision of services in the least restrictive, individually appropriate
6 environment;

7 (b) An individualized service plan;

8 (c) Privacy and humane service;

9 (d) Confidentiality, access, referral, and transfer of records;

10 (e) Monitored active treatment in the least restrictive, individually appropriate
11 environment;

12 (f) Notice of rights under this chapter; and

13 (g) A fair, timely, and impartial grievance procedure to resolve grievances
14 concerning identification and evaluation, services and active treatment,
15 residential alternatives, and the protection of the rights of persons with
16 developmental disabilities under this chapter.

17 (2) Implementation of this chapter providing for the orderly development of services
18 and coordination among organizational units, administrative bodies, and service
19 providers to assure effective provision of services in both the public and private
20 sectors to persons with developmental disabilities.

21 Section 615. KRS 347.060 is amended to read as follows:

22 The Cabinet for Health and Family Services, the Education, Arts, and Humanities
23 Cabinet, and the Department of Education may assess reasonable charges for services
24 rendered under this chapter, based upon a sliding fee scale which takes into account the
25 extensive services required as a result of, and the extraordinary expenses related to, a
26 developmental disability; provided that no charges for services rendered under this
27 chapter may be assessed for compliance with requirements and responsibilities mandated

1 under any state or federal act as provided under subsection (5) of KRS 347.010.

2 Section 616. KRS 363.840 is amended to read as follows:

3 Nothing contained in KRS 363.510 to 363.850 shall be construed as amending, repealing,
4 or superseding any provision of KRS 217.005 to 217.215 (the Kentucky Food, Drug and
5 Cosmetic Act) or the regulations adopted thereunder by the secretary for health and
6 family services.

7 Section 617. KRS 365.425 is amended to read as follows:

8 No application for a going-out-of-business sale shall be accepted by the county clerk if
9 the sale involves foods or drugs damaged by fire or other casualty unless the approval of
10 the Cabinet for Health and Family Services has first been obtained.

11 Section 618. KRS 387.540 is amended to read as follows:

12 (1) Prior to a hearing on a petition for a determination of partial disability or disability
13 and the appointment of a limited guardian, guardian, limited conservator, or
14 conservator, an interdisciplinary evaluation report shall be filed with the court. The
15 report may be filed as a single and joint report of the interdisciplinary evaluation
16 team, or it may otherwise be constituted by the separate reports filed by each
17 individual of the team. If the court and all parties to the proceeding and their
18 attorneys agree to the admissibility of the report or reports, the report or reports
19 shall be admitted into evidence and shall be considered by the jury. The report shall
20 be compiled by at least three (3) individuals, including a physician, a psychologist
21 licensed or certified under the provisions of KRS Chapter 319, and a person
22 licensed or certified as a social worker or an employee of the Cabinet for Health
23 and Family Services~~[Families and Children]~~ who meets the qualifications of KRS
24 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall,
25 when possible, be chosen from among employees of the Cabinet for Health and
26 Family Services~~[Families and Children]~~ residing or working in the area, and there
27 shall be no additional compensation for their service on the interdisciplinary

1 evaluation team.

2 (2) At least one (1) person participating in the compilation of the report shall have
3 knowledge of the particular disability which the respondent is alleged to have or
4 knowledge of the skills required of the respondent to care for himself and his estate.

5 (3) If the respondent is alleged to be partially disabled or disabled due to mental illness,
6 at least one (1) person participating in the compilation of the interdisciplinary
7 evaluation report shall be a qualified mental health professional as defined in KRS
8 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to
9 mental retardation, at least one (1) person participating in the compilation of the
10 evaluation report shall be a qualified mental retardation professional as defined in
11 KRS 202B.010(12).

12 (4) The interdisciplinary evaluation report shall contain:

13 (a) A description of the nature and extent of the respondent's disabilities, if any;

14 (b) Current evaluations of the respondent's social, intellectual, physical, and
15 educational condition, adaptive behavior, and social skills. Such evaluations
16 may be based on prior evaluations not more than three (3) months old, except
17 that evaluations of the respondent's intellectual condition may be based on
18 individual intelligence test scores not more than one (1) year old;

19 (c) An opinion as to whether guardianship or conservatorship is needed, the type
20 of guardianship or conservatorship needed, if any, and the reasons therefor;

21 (d) An opinion as to the length of time guardianship or conservatorship will be
22 needed by the respondent, if at all, and the reasons therefor;

23 (e) If limited guardianship or conservatorship is recommended, a further
24 recommendation as to the scope of the guardianship or conservatorship,
25 specifying particularly the rights to be limited and the corresponding powers
26 and duties of the limited guardian or limited conservator;

27 (f) A description of the social, educational, medical, and rehabilitative services

- 1 currently being utilized by the respondent, if any;
- 2 (g) A determination whether alternatives to guardianship or conservatorship are
- 3 available;
- 4 (h) A recommendation as to the most appropriate treatment or rehabilitation plan
- 5 and living arrangement for the respondent and the reasons therefor;
- 6 (i) A listing of all medications the respondent is receiving, the dosage, and a
- 7 description of the impact of the medication upon the respondent's mental and
- 8 physical condition and behavior;
- 9 (j) An opinion whether attending a hearing on a petition filed under KRS 387.530
- 10 would subject the respondent to serious risk of harm;
- 11 (k) The names and addresses of all individuals who examined or interviewed the
- 12 respondent or otherwise participated in the evaluation; and
- 13 (l) Any dissenting opinions or other comments by the evaluators.
- 14 (5) The evaluation report may be compiled by a community mental health-mental
- 15 retardation center, a licensed facility for mentally ill or developmentally disabled
- 16 persons, if the respondent is a resident of such facility, or a similar agency.
- 17 (6) In all cases where the respondent is a resident of a licensed facility for mentally ill
- 18 or developmentally disabled persons and the petition is filed by an employee of that
- 19 facility, the petition shall be accompanied by an interdisciplinary evaluation report
- 20 prepared by the facility.
- 21 (7) Except as provided in subsection (6) of this section, the court shall order
- 22 appropriate evaluations to be performed by qualified persons or a qualified agency.
- 23 The report shall be prepared and filed with the court and copies mailed to the
- 24 attorneys for both parties at least ten (10) days prior to the hearing. All items
- 25 specified in subsection (4) of this section shall be included in the report.
- 26 (8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners
- 27 shall be paid by the county in which the petition is filed upon an order of allowance

entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

Section 619. KRS 387.600 is amended to read as follows:

(1) The court may appoint as limited guardian, guardian, limited conservator, or conservator any suitable person or any entity, public or private, capable of conducting an active guardianship or conservatorship program. The court shall not ordinarily or customarily appoint the Cabinet for Health and Family Services~~[Families and Children]~~ or any other person or entity, public or private, that is directly providing services to the respondent unless no other suitable person or entity is available and willing to be appointed. Appointment of the Cabinet for Health and Family Services~~[Families and Children]~~ shall be consistent with the provisions of KRS 210.290.

(2) Prior to the appointment, the court shall make a reasonable effort to question the respondent concerning his preference regarding the person or entity to be appointed limited guardian, guardian, limited conservator, or conservator, and any preference

1 indicated shall be given due consideration. If the respondent has designated another
 2 as his attorney in fact or agent by executing a power of attorney in writing, that
 3 designation shall be treated as an indication of the respondent's preference as to the
 4 person or entity to be appointed as his limited guardian, guardian, limited
 5 conservator, or conservator, and that preference shall be given due consideration.

6 The court shall appoint the person or entity best qualified and willing to serve.

7 Section 620. KRS 387.610 is amended to read as follows:

8 Prior to the expiration of a term of guardianship or conservatorship, the limited guardian,
 9 guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for
 10 a renewal of his appointment for a period not to exceed five (5) years. The petition shall
 11 be accompanied by verified affidavits of a physician, or a psychologist licensed or
 12 certified under the provisions of KRS Chapter 319, or a person licensed or certified as a
 13 social worker or an employee of the Cabinet for Health and Family Services~~[Families~~
 14 ~~and Children]~~ who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or
 15 335.090(1)(a), (b), and (c) supporting the need for the continuation of the guardianship or
 16 conservatorship.

17 Section 621. KRS 402.100 is amended to read as follows:

18 Each county clerk shall use the form prescribed by the Department for Libraries and
 19 Archives when issuing a marriage license. This form shall provide for the entering of all
 20 of the information required in this section, and may also provide for the entering of
 21 additional information prescribed by the Department for Libraries and Archives. The
 22 form shall consist of:

23 (1) A marriage license which provides for the entering of:

24 (a) An authorization statement of the county clerk issuing the license for any
 25 person or religious society authorized to perform marriage ceremonies to unite
 26 in marriage the persons named;

27 (b) Vital information for each party, including the full name, date of birth, place

- 1 of birth, race, condition (single, widowed, or divorced), number of previous
2 marriages, occupation, current residence, relationship to the other party, full
3 names of parents, and the Social Security number of each party if that party
4 has a Social Security number; and
- 5 (c) The date and place the license is issued, and the signature of the county clerk
6 or deputy clerk issuing the license.
- 7 (2) A marriage certificate which provides for the entering of:
- 8 (a) A statement by the person performing the marriage ceremony or the clerk of
9 the religious society authorized to solemnize the marriage ceremony that the
10 ceremony was performed. The statement shall include the name and title of
11 the person performing the ceremony or the name of the religious society
12 solemnizing the marriage, the names of persons married, the date and place of
13 the marriage, and the names of two (2) witnesses;
- 14 (b) A statement by the person performing the marriage ceremony of his legal
15 qualification under this chapter to perform the ceremony, such statement to
16 include the name of the county or city where his license to perform marriage
17 ceremonies was issued or, in the case of religious societies authorized by KRS
18 402.050(c) to solemnize marriages, the name of the city or county where the
19 religious society is incorporated. The provisions of this paragraph shall not be
20 construed to require the clerk of a religious society to be present at the
21 marriage so long as the witnesses of the society are present;
- 22 (c) A dated signature of the person performing the ceremony; and
- 23 (d) A signed statement by the county clerk or a deputy county clerk of the county
24 in which the marriage license was issued that the marriage certificate was
25 recorded. The statement shall indicate the name of the county and the date the
26 marriage certificate was recorded.
- 27 (3) A certificate to be delivered by the person performing the marriage ceremony or the

1 clerk of the religious society performing the marriage ceremony to the parties
2 married. This certificate shall provide for the entering of:

- 3 (a) A statement by the person performing the marriage ceremony or the clerk of
4 the religious society performing the marriage ceremony that the ceremony was
5 performed. The statement shall include the name and title of the person
6 performing the ceremony, or the name of the religious society performing the
7 ceremony, the names of persons married, the date and place of the marriage,
8 the names of two (2) witnesses, and the following information as recorded on
9 the license authorizing the marriage: the date the license was issued, the name
10 of the county clerk under whose authority the license was issued, and the
11 county in which the license was issued; and
- 12 (b) A dated signature of the person performing the ceremony or the clerk of the
13 religious society performing the ceremony.

- 14 (4) Any Social Security number recorded on the marriage license shall be stored by the
15 county clerk with a nonidentifying numeric, and the nonidentifying numeric shall be
16 recorded on the marriage license form. The Social Security number shall not be
17 available for public release except for use by the Cabinet for Health and Family
18 Services~~[Families and Children]~~ in efforts to enforce child support.

19 Section 622. KRS 402.320 is amended to read as follows:

20 Every physician examining applicants for a marriage license may obtain an appropriate
21 blood specimen from each applicant and forward same to the Division of Laboratory
22 Services, Cabinet for Health and Family Services, or to a laboratory approved by the
23 cabinet, to ascertain the existence or nonexistence of sickle cell trait or sickle cell disease,
24 or any other genetically transmitted disease which affects hemoglobin. In the event the
25 laboratory tests indicate that both applicants are carriers of a trait or disease, the physician
26 may provide genetic counseling or refer the applicants to the cabinet or to an agency
27 approved by the cabinet for such counseling.

1 Section 623. KRS 402.340 is amended to read as follows:

2 The secretary for health and family services shall adopt rules and regulations for the
3 proper administration and enforcement of KRS 402.310 to 402.340.

4 Section 624. KRS 403.211 is amended to read as follows:

5 (1) An action to establish or enforce child support may be initiated by the parent,
6 custodian, or agency substantially contributing to the support of the child. The
7 action may be brought in the county in which the child resides or where the
8 defendant resides.

9 (2) At the time of initial establishment of a child support order, whether temporary or
10 permanent, or in any proceeding to modify a support order, the child support
11 guidelines in KRS 403.212 shall serve as a rebuttable presumption for the
12 establishment or modification of the amount of child support. Courts may deviate
13 from the guidelines where their application would be unjust or inappropriate. Any
14 deviation shall be accompanied by a written finding or specific finding on the
15 record by the court, specifying the reason for the deviation.

16 (3) A written finding or specific finding on the record that the application of the
17 guidelines would be unjust or inappropriate in a particular case shall be sufficient to
18 rebut the presumption and allow for an appropriate adjustment of the guideline
19 award if based upon one (1) or more of the following criteria:

- 20 (a) A child's extraordinary medical or dental needs;
- 21 (b) A child's extraordinary educational, job training, or special needs;
- 22 (c) Either parent's own extraordinary needs, such as medical expenses;
- 23 (d) The independent financial resources, if any, of the child or children;
- 24 (e) Combined monthly adjusted parental gross income in excess of the Kentucky
25 child support guidelines;
- 26 (f) The parents of the child, having demonstrated knowledge of the amount of
27 child support established by the Kentucky child support guidelines, have

1 agreed to child support different from the guideline amount. However, no
2 such agreement shall be the basis of any deviation if public assistance is being
3 paid on behalf of a child under the provisions of Part D of Title IV of the
4 Federal Social Security Act; and

5 (g) Any similar factor of an extraordinary nature specifically identified by the
6 court which would make application of the guidelines inappropriate.

7 (4) "Extraordinary" as used in this section shall be determined by the court in its
8 discretion.

9 (5) When a party has defaulted or the court is otherwise presented with insufficient
10 evidence to determine gross income, the court shall order child support based upon
11 the needs of the child or the previous standard of living of the child, whichever is
12 greater. An order entered by default or due to insufficient evidence to determine
13 gross income may be modified upward and arrearages awarded from the date of the
14 original order if evidence of gross income is presented within two (2) years which
15 would have established a higher amount of child support pursuant to the child
16 support guidelines set forth in KRS 403.212.

17 (6) The court shall allocate between the parents, in proportion to their combined
18 monthly adjusted parental gross income, reasonable and necessary child care costs
19 incurred due to employment, job search, or education leading to employment, in
20 addition to the amount ordered under the child support guidelines.

21 (7) (a) If health care insurance coverage is reasonable and available at the time the
22 request for coverage is made, the court shall allocate between the parents, in
23 proportion to their combined monthly adjusted parental gross income, the cost
24 of health care insurance coverage for the child, in addition to the support
25 ordered under the child support guidelines.

26 (b) A parent, who has one hundred percent (100%) of the combined monthly
27 adjusted parental gross income, shall be entitled to a reduction in gross

1 income of the entire amount of premiums incurred and paid.

2 (c) The court shall order the cost of health care of the child to be paid by either or
3 both parents of the child regardless of who has physical custody. The court
4 order shall include:

5 1. A judicial directive designating which parent shall have financial
6 responsibility for providing health care for the dependent child, which
7 shall include, but not be limited to, insurance coverage, payments of
8 necessary health care deductibles or copayments; and

9 2. A statement providing that if the designated parent's health care
10 coverage provides for covered services for dependent children beyond
11 the age of majority, then any unmarried children up to twenty-five (25)
12 years of age who are full-time students enrolled in and attending an
13 accredited educational institution and who are primarily dependent on
14 the insured parent for maintenance and support shall be covered.

15 (d) If health care insurance coverage is not reasonable and available at the time
16 the request for the coverage is made, the court order shall provide for health
17 care insurance coverage at the time it becomes reasonable and available.

18 (8) The cost of extraordinary medical expenses shall be allocated between the parties in
19 proportion to their combined monthly adjusted parental gross incomes.
20 "Extraordinary medical expenses" means uninsured expenses in excess of one
21 hundred dollars (\$100) per child per calendar year. "Extraordinary medical
22 expenses" includes, but is not limited to, the costs that are reasonably necessary for
23 medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for
24 professional counseling or psychiatric therapy for diagnosed medical disorders; and
25 for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic
26 services.

27 (9) The court order shall include the Social Security numbers of all parties subject to a

1 support order.

2 (10) In any case administered by the Cabinet for **Health and Family Services**~~[Families~~
3 ~~and Children]~~, if the parent ordered to provide health care coverage is enrolled
4 through an insurer but fails to enroll the child under family coverage, the other
5 parent or the Cabinet for **Health and Family Services**~~[Families and Children]~~ may,
6 upon application, enroll the child.

7 (11) In any case administered by the cabinet, information received or transmitted shall
8 not be published or be open for public inspection, including reasonable evidence of
9 domestic violence or child abuse if the disclosure of the information could be
10 harmful to the custodial parent or the child of the parent. Necessary information and
11 records may be furnished as specified by KRS 205.175.

12 (12) In the case in which a noncustodial parent provides health care coverage, and
13 changes employment, and the new employer provides health care coverage, the
14 Cabinet for **Health and Family Services**~~[Families and Children]~~ shall transfer
15 notice of the provision for coverage for the child to the employer, which shall
16 operate to enroll this child in the noncustodial parent's health plan, unless the
17 noncustodial parent contests the notice as specified by KRS Chapter 13B.

18 (13) Notwithstanding any other provision of this section, any wage or income shall not
19 be exempt from attachment or assignment for the payment of current child support
20 or owed or to-be-owed child support.

21 (14) A payment of money received by a child as a result of a parental disability shall be
22 credited against the child support obligation of the parent. A payment shall not be
23 counted as income to either parent when calculating a child support obligation. An
24 amount received in excess of the child support obligation shall be credited against a
25 child support arrearage owed by the parent that accrued subsequent to the date of
26 the parental disability, but shall not be applied to an arrearage that accrued prior to
27 the date of disability. The date of disability shall be as determined by the paying

1 agency.

2 Section 625. KRS 403.213 is amended to read as follows:

3 (1) The Kentucky child support guidelines may be used by the parent, custodian, or
4 agency substantially contributing to the support of the child as the basis for periodic
5 updates of child support obligations and for modification of child support orders for
6 health care. The provisions of any decree respecting child support may be modified
7 only as to installments accruing subsequent to the filing of the motion for
8 modification and only upon a showing of a material change in circumstances that is
9 substantial and continuing.

10 (2) Application of the Kentucky child support guidelines to the circumstances of the
11 parties at the time of the filing of a motion or petition for modification of the child
12 support order which results in equal to or greater than a fifteen percent (15%)
13 change in the amount of support due per month shall be rebuttably presumed to be a
14 material change in circumstances. Application which results in less than a fifteen
15 percent (15%) change in the amount of support due per month shall be rebuttably
16 presumed not to be a material change in circumstances. For the one (1) year period
17 immediately following enactment of this statute, the presumption of material change
18 shall be a twenty-five percent (25%) change in the amount of child support due
19 rather than the fifteen percent (15%) stated above.

20 (3) Unless otherwise agreed in writing or expressly provided in the decree, provisions
21 for the support of a child shall be terminated by emancipation of the child unless the
22 child is a high school student when he reaches the age of eighteen (18). In cases
23 where the child becomes emancipated because of age, but not due to marriage,
24 while still a high school student, the court-ordered support shall continue while the
25 child is a high school student, but not beyond completion of the school year during
26 which the child reaches the age of nineteen (19) years. Provisions for the support of
27 the child shall not be terminated by the death of a parent obligated to support the

child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances. Emancipation of the child shall not terminate the obligation of child support arrearages that accrued while the child was an unemancipated minor.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for Health and Family Services~~[Families and Children]~~ or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area;

(f) The Attorney General or his designee, who shall be an attorney from his office;

(g) One (1) person who is a custodial parent;

(h) One (1) person who is a noncustodial parent;

(i) One (1) person who is a parent with split custody; and

(j) One (1) child advocate.

The members designated in paragraphs (g) to (j) of this subsection shall be appointed by the Governor from a list of three (3) names for each category submitted by the Cabinet for **Health and Family Services**~~[Families and Children]~~.

If the status of one (1) of these members changes, the member shall be replaced through appointment by the Governor from a list of three (3) names submitted by the cabinet.

- (5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 626. KRS 403.705 is amended to read as follows:

- (1) One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.

- (2) Membership on local domestic violence coordinating councils may include, but not be limited to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under KRS 421.570, family service workers employed by the Cabinet for **Health and Family Services**~~[Families and Children]~~, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.

- (3) The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.

- (4) Local domestic violence coordinating councils shall develop a local protocol consistent with the model protocol issued by the Governor's Council on Domestic Violence and Sexual Assault.

- (5) Local domestic violence coordinating councils may, if authorized by the local

1 coroner or a medical examiner, create a domestic violence fatality review team, the
2 purpose of which shall be to prevent future deaths and injuries related to domestic
3 violence.

4 (6) Domestic violence fatality review teams of local domestic violence coordinating
5 councils may:

6 (a) Analyze information regarding local domestic violence fatalities to identify
7 trends, patterns, and risk factors;

8 (b) Evaluate the effectiveness of local prevention and intervention strategies; and

9 (c) Recommend, to the Governor's Council on Domestic Violence and Sexual
10 Assault, changes in the Kentucky Revised Statutes, administrative regulations,
11 policies, budgets, and treatment and service standards that may facilitate the
12 prevention of domestic violence fatalities. The fatality review team may
13 establish a protocol for the investigation of domestic violence fatalities and
14 may establish operating rules and procedures as it deems necessary to carry
15 out the purposes of this section.

16 (7) The review of a case by a domestic violence fatality review team may include
17 information from reports generated or received by agencies, organizations, or
18 individuals responsible for investigation, prosecution, or treatment in the case.

19 (8) The proceedings, records, opinions, and deliberations of the domestic violence
20 fatality review team shall be privileged and shall not be subject to discovery,
21 subpoena, or introduction into evidence in any civil action in any manner that would
22 directly or indirectly identify specific persons or cases reviewed by the local team.

23 Nothing in this subsection shall be construed to restrict or limit the right to discover
24 or use in any civil action any evidence that is discoverable independent of the
25 proceedings of the domestic violence fatality review team.

26 Section 627. KRS 403.7505 is amended to read as follows:

27 (1) The Cabinet for Health and Family Services shall, by administrative regulations

1 promulgated pursuant to KRS Chapter 13A, establish certification standards for
2 mental health professionals providing court-mandated treatment services for
3 domestic violence offenders.

4 (2) The standards created by the cabinet shall be based on the following principles:

5 (a) Domestic violence is a pattern of coercive control which includes physical,
6 sexual, psychological, and environmental abuse, and is considered to be
7 criminal conduct;

8 (b) The primary goal of treatment programs for domestic violence offenders shall
9 be the cessation of violence which will provide for the safety of victims and
10 their children; and

11 (c) Domestic violence offenders are responsible and shall be held accountable for
12 the violence which they choose to perpetrate.

13 (3) The standards created by the cabinet shall address the following:

14 (a) Qualifications of providers of court-mandated domestic violence offender
15 treatment services which shall include appropriate requirements for degree,
16 experience, training, and continuing education;

17 (b) Procedures for application by providers to receive certification which shall
18 include methods of appeal if certification is denied, and sanctions for
19 noncompliance with the standards which may include revocation of
20 certification;

21 (c) Admittance and discharge criteria for domestic violence offenders to enter
22 court-mandated treatment services provided pursuant to this section;

23 (d) Written protocols for referral by a court to certified providers and for progress
24 reports to be made to the court by providers;

25 (e) Contracts for domestic violence offenders to sign prior to entering court-
26 ordered treatment services provided pursuant to this section. The contract
27 shall specify that certified providers may contact the victims of the offender if

1 the victim chooses to be contacted. The contract shall authorize the provider
2 to release information regarding the offender's progress in treatment to the
3 court, victims, probation and parole officers, and other individuals authorized
4 by the court to receive the information;

5 (f) Written procedures in compliance with KRS 202A.400, 209.030, and
6 620.030;

7 (g) Payment protocols which require the offender to pay the actual cost for any
8 court-mandated evaluation or treatment pursuant to this section, subject to the
9 offender's ability to pay; and

10 (h) Other provisions which shall further the availability and quality of court-
11 mandated domestic violence offender services.

12 (4) The cabinet shall:

13 (a) Maintain a list of providers certified pursuant to this section and regularly
14 submit the list to the Administrative Office of the Courts; and

15 (b) Collect data from certified providers, which shall include demographic
16 information and clinical characteristics on offenders served, number of
17 offenders admitted into treatment and discharge conditions, total clinical
18 services provided to offenders, and other information necessary to monitor the
19 safety and effectiveness of services provided, to be compiled annually and
20 submitted to the Governor, the Chief Justice of the Kentucky Supreme Court,
21 and the Legislative Research Commission.

22 (5) No person, association, or organization shall conduct, operate, maintain, advise, or
23 advertise any program that provides court-ordered treatment services for domestic
24 violence offenders without first obtaining or maintaining valid certification under
25 this chapter. If the cabinet has cause to believe that court-ordered treatment services
26 for domestic violence offenders are being provided by a person or entity that does
27 not possess valid certification under this chapter, the cabinet may institute

proceedings, in the Circuit Court of the county in which the person or entity is located or in Franklin Circuit Court, for injunctive relief to terminate the provision of those services.

(6) Any person certified under this section shall submit quarterly to the cabinet:

(a) Demographic information and clinical characteristics on offenders served;

(b) Number of offenders admitted into treatment and discharge conditions;

(c) Total clinical services provided to offenders; and

(d) Other information as required by administrative regulation.

Section 628. KRS 403.783 is amended to read as follows:

(1) For the purposes of KRS 403.783 to 403.785, "law enforcement agency" means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers, including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).

(2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims' services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency's policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous

1 reporting of adult abuse and domestic violence to the Cabinet for Health and
 2 Family Services~~[Families and Children]~~, Department for Community Based
 3 Services; victim rights, assistance and service responsibilities; and duties related to
 4 timely completion of records. The model policy shall be completed no later than
 5 four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model
 6 policy to each law enforcement agency in the Commonwealth.

7 (3) No later than January 1 after July 15, 1996, and July 31 of every even-numbered
 8 year which follows, every law enforcement agency shall submit a copy of the
 9 agency's written domestic violence policy to the Justice Cabinet.

10 (4) If a law enforcement agency fails to submit a copy of the agency's written domestic
 11 violence policy in a timely manner, the secretary shall promptly notify the law
 12 enforcement agency in writing of the requirements contained in this section.

13 (5) If the secretary determines that a law enforcement agency has submitted a domestic
 14 violence policy which is inadequate, the secretary shall reject the policy and provide
 15 assistance to the agency in developing an adequate domestic violence policy.

16 Section 629. KRS 403.785 is amended to read as follows:

17 (1) Each law enforcement agency shall report all incidents of actual or suspected
 18 domestic violence and abuse within their knowledge to the Cabinet for Health and
 19 Family Services~~[Families and Children]~~, Department for Community Based
 20 Services, within forty-eight (48) hours of learning of the incident or of the suspected
 21 incident.

22 (2) When a law enforcement officer has reason to suspect that a family member,
 23 member of an unmarried couple, or household member has been the victim of
 24 domestic violence and abuse, the officer shall use all reasonable means to prevent
 25 further abuse, including but not limited to:

26 (a) Remaining at the location of the domestic violence and abuse so long as the
 27 officer reasonably suspects there is danger to the physical safety of individuals

1 present without the presence of a law enforcement officer;

2 (b) Assisting the victim of domestic violence and abuse in obtaining medical
3 treatment, including transporting the victim to the nearest medical facility
4 capable of providing the necessary treatment; and

5 (c) Advising the victim immediately of the rights available to them, including the
6 provisions of KRS 403.715 to 403.785.

7 Section 630. KRS 405.411 is amended to read as follows:

8 (1) The Cabinet for **Health and Family Services**~~[Families and Children's]~~ designee
9 under KRS 205.712(6) for the administration of child support may compile a list of
10 the names of persons under its jurisdiction who have a child support arrearage that
11 equals or exceeds six (6) months without payment, or fails, after receiving
12 appropriate notice, to comply with subpoenas or warrants relating to paternity or
13 child support proceedings as provided by 42 U.S.C. sec. 666(a)(16). The cabinet
14 may furnish this list to the newspaper of general circulation in that county for
15 publication.

16 (2) The Division of Child Support~~[Enforcement]~~ in the Cabinet for **Health and Family**
17 **Services**~~[Families and Children]~~ shall determine uniform standards for publication.
18 The cabinet is authorized to promulgate the necessary administrative regulations
19 under KRS Chapter 13A to implement the provisions of this section.

20 (3) For purposes of this section, "newspaper of general circulation" means a publication
21 bearing a title or name, regularly issued at least as frequently as once a week for a
22 definite price, having a second-class mailing privilege, being not less than four (4)
23 pages, published continuously during the immediately preceding one (1) year
24 period, which is published for the dissemination of news of general interest, and is
25 circulated generally in the political subdivision in which it is published and in
26 which notice is to be given. In any county where a publication fully complying with
27 this definition does not exist, the Cabinet for **Health and Family Services**~~[Families~~

1 ~~and Children~~] may publish this list in the publication utilized by the Circuit Court
 2 Clerk of the county for publication of other legal notices in the county. A newspaper
 3 that is not engaged in the distribution of news of general interest to the public, but
 4 that is primarily engaged in the distribution of news of interest to a particular group
 5 of citizens, is not a newspaper of general circulation.

6 Section 631. KRS 405.435 is amended to read as follows:

- 7 (1) An employer or labor organization in the Commonwealth of Kentucky shall provide
 8 information to the Cabinet for **Health and Family Services**~~[Families and Children]~~
 9 when that employer or labor organization hires an employee who resides or works
 10 in the Commonwealth, or rehires or permits the return to work of an employee who
 11 has been laid off, furloughed, separated, granted a leave without pay, or terminated
 12 from employment, unless the reporting could endanger the safety of the employee or
 13 compromise an ongoing investigation or intelligence mission as determined by the
 14 secretary of **health and family services**~~[families and children]~~.
- 15 (2) The employer shall provide the information within twenty (20) days of the hiring or
 16 return to work of the employee. The information shall include:
 - 17 (a) The employee's name, address, and Social Security number; and
 - 18 (b) The employer's name, address, and, if the employer has been assigned one,
 19 federal and state employer identification numbers.
- 20 (3) An employer shall report the required information by submitting a copy of the
 21 employee's W-4 form or, at the option of the employer, an equivalent form provided
 22 by the Cabinet for **Health and Family Services**~~[Families and Children]~~ as
 23 prescribed by administrative regulation promulgated by the Cabinet for **Health and**
 24 **Family Services**~~[Families and Children]~~ in accordance with KRS Chapter 13A.
- 25 (4) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall enter all
 26 new hire information into the database of the cabinet within five (5) business days.
- 27 (5) The Cabinet for **Health and Family Services**~~[Families and Children]~~ may

- 1 promulgate administrative regulations in accordance with KRS Chapter 13A if the
 2 Cabinet for **Health and Family Services**~~[Families and Children]~~ determines
 3 exceptions are needed to reduce unnecessary or burdensome reporting or are needed
 4 to facilitate cost-effective operation of the cabinet under this section.
- 5 (6) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall use the
 6 information collected pursuant to this section for the location of noncustodial
 7 parents, establishment, modification, and enforcement of child support and any
 8 other matter related to paternity or child support.
- 9 (7) If the employer fails to report as required by this section, the Cabinet for **Health**
 10 **and Family Services**~~[Families and Children]~~ shall give the employer written notice
 11 of the provisions of this section, including the penalty for failure to report.
- 12 (8) If the employer has not filed a report within twenty (20) days from the date that the
 13 written notice is sent to him, the Cabinet for **Health and Family Services**~~[Families~~
 14 ~~and Children]~~ shall send a second written notice.
- 15 (9) If the employer fails to file a W-4 or equivalent form within twenty (20) days from
 16 the date that the second written notice is sent, or supplies a false or incomplete
 17 report, and the failure is a result of a conspiracy between the employee and the
 18 employer to prevent the proper information from being filed within twenty (20)
 19 days from the date that the second written notice is sent, the Cabinet for **Health and**
 20 **Family Services**~~[Families and Children]~~ shall send the employer by certified mail,
 21 return receipt request, notice of an administrative fine. The fine shall be two
 22 hundred fifty dollars (\$250) per calendar month per person for any violation
 23 occurring after the second notice has been given, and continuing until a W-4 or
 24 equivalent form is received by the Cabinet for **Health and Family**
 25 **Services**~~[Families and Children]~~. No fine shall be imposed for any period of less
 26 than one (1) full calendar month.
- 27 (10) The employer shall have ten (10) days after receipt of the administrative fine notice

1 to request a hearing before the Cabinet for **Health and Family Services**~~[Families~~
 2 ~~and Children]~~ on whether the administrative fine was properly assessed. If a timely
 3 request for a hearing is received, the Cabinet for **Health and Family**
 4 **Services**~~[Families and Children]~~ shall schedule and conduct a hearing in accordance
 5 with administrative regulations promulgated by the cabinet in accordance with KRS
 6 Chapter 13A.

7 Section 632. KRS 405.463 is amended to read as follows:

8 The Kentucky Lottery Corporation and the Cabinet for **Health and Family**
 9 **Services**~~[Families and Children]~~ shall develop a system to allow the Kentucky Lottery
 10 Corporation to receive a list of delinquent child support obligors from the Cabinet for
 11 **Health and Family Services**~~[Families and Children]~~ on a monthly basis. The Kentucky
 12 Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear
 13 on the list. This system shall be timely and shall not create an unavoidable delay in the
 14 payment of a lottery prize.

15 Section 633. KRS 405.465 is amended to read as follows:

- 16 (1) This section shall apply only to those child support, medical support, maintenance,
 17 and medical support insurance orders that are established, modified, or enforced by
 18 the Cabinet for **Health and Family Services**~~[Families and Children]~~ or those court
 19 orders obtained in administering Part D, Title IV of the Federal Social Security Act.
- 20 (2) All child support orders and medical support insurance orders being established,
 21 modified, or enforced by the Cabinet for **Health and Family Services**~~[Families and~~
 22 ~~Children]~~, or those orders obtained pursuant to the administration of Part D, Title
 23 IV of the Federal Social Security Act, shall provide for income withholding which
 24 shall begin immediately.
- 25 (3) The court shall order either or both parents who are obligated to pay child support,
 26 medical support, or maintenance under this section to assign to the Cabinet for
 27 **Health and Family Services**~~[Families and Children]~~ that portion of salary or wages

1 of the parent due and to be due in the future as will be sufficient to pay the child
 2 support amount ordered by the court.

3 (4) The order shall be binding upon the employer or any subsequent employer upon the
 4 service by certified mail of a copy of the order upon the employer and until further
 5 order of the court. The employer may deduct the sum of one dollar (\$1) for each
 6 payment made pursuant to the order.

7 (5) The employer shall notify the cabinet when an employee, for whom a wage
 8 withholding is in effect, terminates employment and provide the terminated
 9 employee's last known address and the name and address of the terminated
 10 employee's new employer, if known.

11 (6) Any assignment made pursuant to court order shall have priority as against any
 12 attachment, execution, or other assignment, unless otherwise ordered by the court.

13 (7) No assignment under this section by an employee shall constitute grounds for
 14 dismissal of the obligor, refusal to employ, or taking disciplinary action against any
 15 obligor subject to withholding required by this section.

16 Section 634. KRS 405.467 is amended to read as follows:

17 (1) All support orders issued by the Cabinet for *Health and Family Services*~~[Families~~
 18 ~~and Children]~~, including those issued pursuant to Part D, Title IV of the Federal
 19 Social Security Act, shall provide for immediate withholding of earnings of the
 20 parent or parents obligated to pay child support and medical support as is necessary
 21 to pay the child support obligation, except where one (1) of the parties
 22 demonstrates, and the court or administrative order finds that there is good cause
 23 not to require immediate income withholding, or a written agreement is reached by
 24 both parties which provides for an alternative arrangement.

25 (2) In any case in which a support order was issued in the state and in which a parent is
 26 required to pay court-ordered or administratively determined child support, medical
 27 support, maintenance, and medical support insurance, and wage withholding is not

1 in effect, and an arrearage accrues that is equal to the amount of support payment
2 for one (1) month, upon request of the absent parent, request of the custodial parent,
3 or upon administrative determination, the secretary shall issue an order for
4 withholding of earnings of the parent as is necessary to comply with the order plus
5 interest at the legal rate on the arrearage, if any, without the need for a judicial or
6 administrative hearing.

7 (3) In any case in which a parent is required either by court order or administrative
8 order to provide medical insurance coverage for the child and the parent has failed
9 to make application to obtain coverage for the child, the secretary shall issue an
10 order for withholding of the employee's share, if any, of premiums for health
11 coverage and to pay the share of premiums to the insurer, without the need for a
12 judicial or administrative hearing.

13 (4) The cabinet shall advise the obligated parent that a wage withholding has
14 commenced by sending a copy of the order to withhold at the same time that the
15 order is sent to the employer. The only basis for contesting the withholding shall be
16 a mistake of fact or law. If the parent contests the withholding, the cabinet shall give
17 the obligor an opportunity to present his or her case at an administrative hearing
18 conducted in accordance with KRS Chapter 13B and decide if the withholding will
19 continue.

20 (5) The cabinet shall combine any administrative or judicial wage withholding order, or
21 multiple administrative or judicial orders for child support and medical support into
22 a single wage withholding order when payable through the cabinet to a single family
23 or to multiple family units.

24 (6) The cabinet shall serve the order to withhold earnings or notice of multiple wage
25 withholding orders specifying wage withholding requirements on the employer of
26 an obligor by certified mail, return receipt requested. The order shall state the
27 amount to be withheld, or the requirement to enroll the child under the health

1 insurance coverage, including amounts to be applied to arrearages, plus interest at
2 the legal rate on the arrearage, if any, and the date the withholding is to begin. The
3 total amount to be withheld, including current support and payment on arrearages
4 plus interest, and medical insurance coverage may not exceed the limit permitted
5 under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

6 (7) If there is more than one (1) notice for child support withholding against a single
7 absent parent, the cabinet shall allocate amounts available for withholding, giving
8 priority to current child support, up to the limits imposed under Section 303(b) of
9 the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the
10 cabinet shall not result in a withholding for one (1) of the support obligations not
11 being implemented. Amounts resulting from wage withholding shall be allocated on
12 a proportionate basis between multiple family units. Any custodial parent adversely
13 affected by the provisions of this subsection shall have standing to challenge any
14 proportionate allocations and, for good cause shown, a District Court, Circuit Court,
15 or family court of competent jurisdiction may set aside the cabinet's proportional
16 allocations as to the custodial parent.

17 (8) If the amounts to be withheld preclude collection of the total amount of combined
18 child support and medical support due to the limits of the federal Consumer Credit
19 Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be
20 applied first to the current monthly child support obligation amount. Any payment
21 exceeding the current monthly child support obligation shall then be applied by the
22 cabinet to the administratively ordered or judicially ordered medical support
23 obligation.

24 (9) The employer shall forward to the Cabinet for Health and Family
25 Services~~[Families and Children]~~ that portion of salary or wages of the parent due
26 and to be due in the future as will be sufficient to pay the child support amount
27 ordered.

- 1 (10) The employer shall be held liable to the cabinet for any amount which the employer
2 fails to withhold from earnings due an obligor following receipt of an order to
3 withhold earnings.
- 4 (11) Any order to withhold earnings under this section shall have priority as against any
5 attachment, execution, or other assignment, notwithstanding any state statute or
6 administrative regulation to the contrary.
- 7 (12) No withholding under this section shall be grounds for discharging from
8 employment, refusing to employ, or taking disciplinary action against any obligor
9 subject to withholding required by this section.
- 10 (13) The remedies provided for in this section shall also be available for applicable
11 support orders issued in other states.
- 12 (14) Interstate requests for withholding of earnings shall be processed by the cabinet.
- 13 Section 635. KRS 405.490 is amended to read as follows:
- 14 (1) Any person, including the obligor, who has been served with an order to withhold
15 and deliver the obligor's property shall answer the order within twenty (20) days.
- 16 (2) The person in possession of any obligor's property shall withhold it and deliver it to
17 the cabinet in accordance with the secretary's directions; or the obligor may offer a
18 bond which is satisfactory to the cabinet.
- 19 (3) The person in possession of obligor's property shall have no liability or further
20 responsibility after fulfilling the duties under this section.
- 21 (4) The obligor may dispute the amount of delinquent support by requesting a dispute
22 hearing with twenty (20) days.
- 23 (5) If the obligor does not request a hearing, acknowledgment of the obligation is
24 presumed and the secretary may apply the withheld property to the delinquent child
25 support obligation.
- 26 (6) If a hearing is requested, when property or a bond is released to the secretary
27 pursuant to an order to withhold and deliver property, the secretary shall hold the

property or bond, pending determination of the obligor's liability by a hearing officer, pursuant to KRS 405.450.

- (7) Upon a decision adverse to the Cabinet for Health and Family Services~~[Families and Children]~~ by a hearing officer, of the Circuit Court on appeal, the cabinet shall return the property together with interest at the legal rate for judgments.

Section 636. KRS 406.021 is amended to read as follows:

- (1) Paternity may be determined upon the complaint of the mother, putative father, child, person, or agency substantially contributing to the support of the child. The action shall be brought by the county attorney or by the Cabinet for Health and Family Services~~[Families and Children]~~ or its designee upon the request of complainant authorized by this section.

- (2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name and Social Security number of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name and Social Security number of the child's father and the father admits paternity of the child.

- (3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person, or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support, or funeral expenses. Bills for testing, pregnancy, and childbirth without requiring third party foundation testimony shall be regarded as prima facie evidence of the amount incurred. An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant authorized by this section. An action to enforce the liabilities of the cost of pregnancy, birthing costs, child support, and medical

1 support shall be brought by the county attorney or by the Cabinet for Health and
2 Family Services~~[Families and Children]~~ or its designee.

3 (4) Voluntary acknowledgment of paternity pursuant to KRS 213.046 shall create a
4 rebuttable presumption of paternity.

5 (5) Upon a showing of service of process on the defendant and if the defendant has
6 made no pleading to the court or has not moved to enter evidence pursuant to KRS
7 406.091, the court shall order paternity to be established by default.

8 Section 637. KRS 406.025 is amended to read as follows:

9 (1) Upon completion of a signed, notarized, voluntary acknowledgment-of-paternity
10 affidavit by the mother and alleged father, obtained through the hospital-based
11 paternity program, and submitted to the state registrar of vital statistics, paternity
12 shall be rebuttably presumed for the earlier of sixty (60) days or the date of an
13 administrative or judicial proceeding relating to the child, including a proceeding to
14 establish a child support order.

15 (2) Upon completion of a signed, notarized, voluntary acknowledgment-of-paternity
16 affidavit by the mother and alleged father obtained outside of the hospital and
17 submitted to the state registrar of vital statistics, paternity shall be rebuttably
18 presumed for the earlier of sixty (60) days or the date of an administrative or
19 judicial proceeding relating to the child, including a proceeding to establish a child
20 support order following the date of signatures on the notarized affidavit.

21 (3) Pending an administrative or judicial determination of parentage, or upon a signed,
22 notarized, voluntary acknowledgment-of-paternity form having been transmitted by
23 the local registrar and received by the~~[Office of]~~ Vital Statistics Branch, a
24 temporary support order shall be issued upon motion of any party if paternity is
25 indicated by genetic testing or other clear and convincing evidence.

26 (4) The motion shall be accompanied by an affidavit setting forth the factual basis for
27 the motion and the amounts requested.

1 (5) The court shall, within fourteen (14) days from the filing of the motion, order an
2 amount of temporary child support based upon the child support guidelines as
3 provided by KRS 403.212. The ordered child support shall be retroactive to the date
4 of the filing of the motion to move the court to enter an order for temporary child
5 support without written or oral notice to the adverse party. The order shall provide
6 that the order becomes effective seven (7) days following service of the order and
7 movant's affidavit upon the adverse party unless the adverse party, within the seven
8 (7) day period, files a motion for a hearing before the court. The motion for hearing
9 shall be accompanied by the affidavit required by KRS 403.160(2)(a). Pending the
10 hearing, the adverse party shall pay child support in an amount based upon the
11 guidelines and the adverse party's affidavit. The child support order entered
12 following the hearing shall be retroactive to the date of the filing of the motion for
13 temporary support unless otherwise ordered by the court.

14 (6) Unless good cause is shown, court or administratively ordered child support shall
15 continue until final judicial or administrative determination of paternity.

16 Section 638. KRS 406.091 is amended to read as follows:

17 (1) An unchallenged acknowledgment of paternity shall be ratified under KRS Chapter
18 213 without the requirement for judicial or administrative proceedings. If a genetic
19 test is required, the court shall direct that inherited characteristics be determined by
20 appropriate testing procedures, and shall appoint an expert qualified as an examiner
21 of genetic markers to analyze and interpret results and to report to the court.

22 (2) In a contested paternity case, the child and all other parties shall submit to genetic
23 testing upon a request of any such party which shall be supported by a sworn
24 statement of the party, except for good cause.

25 (3) Genetic test results are admissible and shall be weighed along with other evidence
26 of the alleged father's paternity.

27 (4) Any objection to genetic testing results shall be made in writing to the court within

twenty (20) days of receipt of genetic test results. If the results of genetic tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing. If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

(5) Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(6) A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(7) Except where the Cabinet for **Health and Family Services**~~[Families and Children]~~ administratively orders genetic testing, all costs associated with genetic testing shall be paid by the parties in proportions determined by the court.

(8) When administratively ordered, the cabinet shall pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established. The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

Section 639. KRS 407.440 is amended to read as follows:

If the secretary for **health and family services**~~[families and children]~~ or his authorized representative is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may perfect an appeal to the proper appellate court if the support order was issued by a court of this state, or if the support order was issued in another state, cause the appeal to be taken in the other state. In either case, expenses of appeal may be paid on his order from funds appropriated for his office.

Section 640. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

(1) "Child" means an individual, whether over or under the age of majority, who is or is

- 1 alleged to be owed a duty of support by the individual's parent or who is or is
2 alleged to be the beneficiary of a support order directed to the parent;
- 3 (2) "Child support order" means a support order for a child, including a child who has
4 attained the age of majority under the law of the issuing state;
- 5 (3) "Duty of support" means an obligation imposed or imposable by law to provide
6 support for a child, spouse, or former spouse, including an unsatisfied obligation to
7 provide support;
- 8 (4) "Home state" means the state in which a child lived with a parent or a person acting
9 as parent for at least six (6) consecutive months immediately preceding the time of
10 filing of a petition or comparable pleading for support and, if a child is less than six
11 (6) months old, the state in which the child lived from birth with any of them. A
12 period of temporary absence of any of them is counted as part of the six (6) month
13 or other period;
- 14 (5) "Income" includes earnings or other periodic entitlements to money from any source
15 and any other property subject to withholding for support under the law of this state;
- 16 (6) "Income-withholding order" means an order or other legal process directed to an
17 obligor's employer or other debtor, as defined by KRS 403.212, to withhold support
18 from the income of the obligor;
- 19 (7) "Initiating state" means a state from which a proceeding is forwarded or in which a
20 proceeding is filed for forwarding to a responding state under this chapter or a law
21 or procedure substantially similar to KRS 407.5101 to 407.5902, the Uniform
22 Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal
23 Enforcement of Support Act;
- 24 (8) "Initiating tribunal" means the authorized tribunal in an initiating state;
- 25 (9) "Issuing state" means the state in which a tribunal issues a support order or renders
26 a judgment determining parentage;
- 27 (10) "Issuing tribunal" means the tribunal that issues a support order or renders a

- 1 judgment determining parentage;
- 2 (11) "Law" includes decisional and statutory law and rules and regulations having the
3 force of law;
- 4 (12) "Obligee" means:
- 5 (a) An individual to whom a duty of support is or is alleged to be owed or in
6 whose favor a support order has been issued or a judgment determining
7 parentage has been rendered;
- 8 (b) A state or political subdivision to which the rights under a duty of support or
9 support order have been assigned or which has independent claims based on
10 financial assistance provided to an individual obligee; or
- 11 (c) An individual seeking a judgment determining parentage of the individual's
12 child;
- 13 (13) "Obligor" means an individual, or the estate of a decedent:
- 14 (a) Who or is alleged to owe a duty of support;
- 15 (b) Who is alleged but has not been adjudicated to be a parent of a child; or
- 16 (c) Who is liable under a support order;
- 17 (14) "Register" means to file a support order or judgment determining parentage with the
18 Cabinet for Health and Family Services~~[Families and Children]~~;
- 19 (15) "Registering tribunal" means a tribunal in which a support order is registered;
- 20 (16) "Responding state" means a state in which a proceeding is filed or to which a
21 proceeding is forwarded for filing from an initiating state under this chapter or a law
22 or procedure substantially similar to KRS 407.5101 to 407.5902, the Uniform
23 Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal
24 Enforcement of Support Act;
- 25 (17) "Responding tribunal" means the authorized tribunal in a responding state;
- 26 (18) "Spousal-support order" means a support order for a spouse or former spouse of the
27 obligor;

(19) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

(a) An Indian tribe; and

(b) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act;

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) To locate obligors or their assets;

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief; and

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 641. KRS 407.5102 is amended to read as follows:

The Circuit Court, District Court, and family courts shall be the state tribunals for judicial proceedings, and the Cabinet for **Health and Family Services**~~[Families and Children]~~ and the Division of Child Support shall be the state tribunals for administrative proceedings.

Section 642. KRS 407.5201 is amended to read as follows:

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or

1 the individual's guardian or conservator if:

- 2 (1) The individual is personally served with summons, or notice within this state;
- 3 (2) The individual submits to the jurisdiction of this state by consent, by entering a
4 general appearance, or by filing a responsive pleading having the effect of waiving
5 any contest to personal jurisdiction;
- 6 (3) The individual resided with the child in this state;
- 7 (4) The individual resided in this state and provided prenatal expenses or support for
8 the child;
- 9 (5) The child resides in this state as a result of the acts or directives of the individual;
- 10 (6) The individual engaged in sexual intercourse in this state and the child may have
11 been conceived by that act of intercourse;
- 12 (7) The individual asserted parentage in the putative father registry maintained in this
13 state by the Cabinet for **Health and Family Services**~~[Families and Children]~~; or
- 14 (8) There is any other basis consistent with the constitutions of this state and the United
15 States for the exercise of personal jurisdiction.

16 Section 643. KRS 407.5308 is amended to read as follows:

17 If the Cabinet for **Health and Family Services**~~[Families and Children]~~ determines that a
18 contracting official is neglecting or refusing to provide services to an individual, the
19 Cabinet for **Health and Family Services**~~[Families and Children]~~ may order that official
20 to perform his duties under KRS 407.5101 to 407.5902 or may provide those services
21 directly to the individual.

22 Section 644. KRS 407.5310 is amended to read as follows:

- 23 (1) The Cabinet for **Health and Family Services**~~[Families and Children]~~ is the state
24 information agency under KRS 407.5101 to 407.5902.
- 25 (2) The state information agency shall:
 - 26 (a) Compile and maintain a current list, including addresses, of the tribunals in
27 this state which have jurisdiction under KRS 407.5101 to 407.5902 and any

1 support enforcement agencies in this state and transmit a copy to the state
2 information agency of every other state;

3 (b) Maintain a register of tribunals and support enforcement agencies received
4 from other states;

5 (c) Forward to the appropriate tribunal in the place in this state in which the
6 individual obligee or the obligor resides, or in which the obligor's property is
7 believed to be located, all documents concerning a proceeding under KRS
8 407.5101 to 407.5902 received from an initiating tribunal or the state
9 information agency of the initiating state; and

10 (d) Obtain information concerning the location of the obligor and the obligor's
11 property within this state not exempt from execution, by such means as postal
12 verification and federal or state locator services, examination of telephone
13 directories, requests for the obligor's address from employers, and
14 examination of governmental records, including, to the extent not prohibited
15 by other law, those relating to real property, vital statistics, law enforcement,
16 taxation, motor vehicles, driver's licenses, and Social Security.

17 Section 645. KRS 407.5602 is amended to read as follows:

18 (1) A support order or income-withholding order of another state may be registered in
19 this state by sending the following documents and information to the Cabinet for
20 **Health and Family Services**~~[Families and Children]~~ or the appropriate tribunal
21 within this state wherein the obligor resides, works, or owns property:

22 (a) A letter of transmittal to the tribunal requesting registration and enforcement;

23 (b) Two (2) copies, including one (1) certified copy, of all orders to be registered,
24 including any modification of an order;

25 (c) A sworn statement by the party seeking registration or a certified statement by
26 the custodian of the records showing the amount of any arrearage;

27 (d) The name of the obligor and, if known;

- 1 1. The obligor's address and Social Security number;
- 2 2. The name and address of the obligor's employer and any other source of
- 3 income of the obligor; and
- 4 3. A description and the location of property of the obligor in this state not
- 5 exempt from execution; and

6 (e) The name and address of the obligee and, if applicable, the agency or person

7 to whom support payments are to be remitted.

8 (2) On receipt of a request for registration, the registering tribunal shall cause the order

9 to be filed as a foreign judgment, together with one (1) copy of the documents and

10 information, regardless of their form.

11 (3) A petition or comparable pleading seeking a remedy that must be affirmatively

12 sought under other law of this state may be filed at the same time as the request for

13 registration or later. The pleading shall specify the grounds for the remedy sought.

14 Section 646. KRS 411.095 is amended to read as follows:

15 (1) An adult or emancipated minor who damages, destroys, or takes possession of any

16 goods, wares, or merchandise, stored, displayed, or offered for sale by any

17 wholesale or retail store or other mercantile establishment, or who alters the price

18 indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and

19 514, without having paid the purchase price thereof, shall be civilly liable to the

20 owner for actual damages, if any, and for a penalty to the owner in the amount of

21 the retail value of the merchandise not to exceed five hundred dollars (\$500), plus

22 an additional penalty to the owner of not less than one hundred dollars (\$100) nor

23 more than two hundred fifty dollars (\$250).

24 (2) The custodial parents or legal guardian having custody of an unemancipated minor

25 who damages, destroys, or takes possession of any goods, wares, or merchandise,

26 stored, displayed, or offered for sale by any wholesale or retail store or other

27 mercantile establishment, or who alters the price indicia of the merchandise, which

would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars (\$500), plus an additional penalty to the owner of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250). For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for Health and Family Services~~[Families and Children]~~, or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) A conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to the maintenance of a civil action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages, or penalty, or both, and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the claim prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages or penalties, or both, which may be recovered under this section, a judgment for recovery shall also include court costs.

(10) Civil claims under this section shall apply to those claims which arise after July 13,

1 1990.

2 Section 647. KRS 411.148 is amended to read as follows:

- 3 (1) No physician licensed under KRS Chapter 311, registered or practical nurse
4 licensed under KRS Chapter 314, person certified as an emergency medical
5 technician by the Kentucky Cabinet for Health and Family Services, person
6 certified by the American Heart Association or the American Red Cross to perform
7 cardiopulmonary resuscitation, or employee of any board of education established
8 pursuant to the provision of KRS 160.160, who has completed a course in first aid
9 and who maintains current certification therein in accordance with the standards set
10 forth by the American Red Cross shall be liable in civil damages for administering
11 emergency care or treatment at the scene of an emergency outside of a hospital,
12 doctor's office, or other place having proper medical equipment excluding house
13 calls, for acts performed at the scene of such emergency, unless such acts constitute
14 willful or wanton misconduct.
- 15 (2) Nothing in this section applies to the administering of such care or treatment where
16 the same is rendered for remuneration or with the expectation of remuneration.
- 17 (3) The administering of emergency care or treatment at the scene of an emergency by
18 employees of a board of education shall not be considered to be rendered for
19 remuneration or with the expectation of remuneration because such personnel
20 perform such care as part of their regular professional or work responsibilities for
21 which they receive their regular salaries from the school board which is their
22 employer.

23 Section 648. KRS 431.076 is amended to read as follows:

- 24 (1) A person who has been charged with a criminal offense and who has been found not
25 guilty of the offense, or against whom charges have been dismissed with prejudice,
26 and not in exchange for a guilty plea to another offense, may make a motion, in the
27 District or Circuit Court in which the charges were filed, to expunge all records

1 including, but not limited to, arrest records, fingerprints, photographs, index
2 references, or other data, whether in documentary or electronic form, relating to the
3 arrest, charge, or other matters arising out of the arrest or charge.

4 (2) The expungement motion shall be filed no sooner than sixty (60) days following the
5 order of acquittal or dismissal by the court.

6 (3) Following the filing of the motion, the court may set a date for a hearing. If the
7 court does so, it shall notify the county or Commonwealth's attorney, as appropriate,
8 of an opportunity for a response to the expungement motion. In addition, if the
9 criminal charge relates to the abuse or neglect of a child, the court shall also notify
10 the Office of General Counsel of the Cabinet for Health and Family
11 Services~~[Families and Children]~~ of an opportunity for a response to the
12 expungement motion. The counsel for the Cabinet for Health and Family
13 Services~~[Families and Children]~~ shall respond to the expungement motion, within
14 twenty (20) days of receipt of the notice, which period of time shall not be extended
15 by the court, if the Cabinet for Health and Family Services~~[Families and Children]~~
16 has custody of records reflecting that the person charged with the criminal offense
17 has been determined by the cabinet or by a court under KRS Chapter 620 to be a
18 substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to
19 the expungement motion or if the cabinet fails to prevail, the order of expungement
20 shall extend to the cabinet's records. If the cabinet prevails, the order of
21 expungement shall not extend to the cabinet's records.

22 (4) If the court finds that there are no current charges or proceedings pending relating to
23 the matter for which the expungement is sought, the court may grant the motion and
24 order the sealing of all records in the custody of the court and any records in the
25 custody of any other agency or official, including law enforcement records. The
26 court shall order the sealing on a form provided by the Administrative Office of the
27 Courts. Every agency, with records relating to the arrest, charge, or other matters

1 arising out of the arrest or charge, that is ordered to seal records, shall certify to the
 2 court within sixty (60) days of the entry of the expungement order, that the required
 3 sealing action has been completed. All orders enforcing the expungement procedure
 4 shall also be sealed.

5 (5) After the expungement, the proceedings in the matter shall be deemed never to have
 6 occurred. The court and other agencies shall reply to any inquiry that no record
 7 exists on the matter. The person whose record is expunged shall not have to disclose
 8 the fact of the record or any matter relating thereto on an application for
 9 employment, credit, or other type of application.

10 (6) Inspection of the expunged records may thereafter be permitted by the court only
 11 upon a motion by the person who is the subject of the records and only to those
 12 persons named in the motion.

13 (7) This section shall be retroactive.

14 Section 649. KRS 431.100 is amended to read as follows:

15 (1) When a money judgment is entered against a defendant in a criminal proceeding
 16 and each sum, or any part thereof, remains unpaid, there shall be withheld from any
 17 disbursement, payment, benefit, compensation, salary, or other transfer of money
 18 from the Commonwealth of Kentucky to such defendant an amount equal to the
 19 unpaid amount of the judgment. Under no circumstances shall the general fund be
 20 used to reimburse court costs or pay for judgment.

21 (2) Except as provided in this section, all fines and forfeitures imposed by law or
 22 ordinance shall inure to and vest in the Commonwealth.

23 (3) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances
 24 relating to similar subject matter shall inure to and vest in the Commonwealth and
 25 shall be placed in a special fund in the State Treasury, which shall not lapse, and
 26 which, effective July 1, 1987, shall be used solely by the Cabinet for Health and
 27 Family Services for the provision of treatment and counseling programs for

1 alcoholics.

2 (4) Sixty percent (60%) of fines for violation of KRS 512.070 shall, when collected, be
3 transferred by the circuit clerk to the county treasurer for inclusion in the general
4 fund of the county in which the offense occurs and forty percent (40%) shall be
5 transferred to the agency that issued the citation.

6 (5) The court shall not order a fine, forfeiture, service fee, cost, or any other money due
7 the Commonwealth or any other public officer paid to any person or organization
8 other than one specifically required by the Kentucky Revised Statutes, nor shall a
9 court suspend payment of a fine, forfeiture, service fee, cost, or any other money
10 due the Commonwealth if the defendant makes a payment to another person or
11 organization, unless so authorized by the court and the Kentucky Revised Statutes.

12 (6) When, as authorized in the Kentucky Revised Statutes, a court does order a fine,
13 forfeiture, service fee, cost, or any other monetary penalty to be paid to a person
14 other than the circuit clerk, notice of this order will be served on the defendant and
15 a copy of the order will be delivered to the person. Such an order constitutes a
16 judgment of the court and carries with it all lawful means of enforcement and
17 collection.

18 Section 650. KRS 431.600 is amended to read as follows:

19 (1) Each investigation of reported or suspected sexual abuse of a child shall be
20 conducted by a specialized multidisciplinary team composed, at a minimum, of law
21 enforcement officers and social workers from the Cabinet for Health and Family
22 Services~~[Families and Children]~~. Cabinet for Health and Family Services~~[Families~~
23 ~~and Children]~~ social workers shall be available to assist in all investigations under
24 this section but shall be lead investigators only in those cases of reported or
25 suspected sexual abuse of a child in which a person exercising custodial control or
26 supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of
27 the abuse. Additional team members may include Commonwealth's and county

1 attorneys, children's advocacy center staff, mental health professionals, medical
2 professionals, victim advocates, educators, and other related professionals, as
3 necessary, operating under protocols governing roles, responsibilities, and
4 procedures developed by the Kentucky Multidisciplinary Commission on Child
5 Sexual Abuse and promulgated by the Attorney General as administrative
6 regulations pursuant to KRS Chapter 13A.

7 (2) Local protocols shall be developed in each county or group of contiguous counties
8 by the agencies and persons specified in subsection (1) of this section specifying
9 how the state protocols shall be followed within the county or group of contiguous
10 counties. These protocols shall be approved by the Kentucky Multidisciplinary
11 Commission on Child Sexual Abuse.

12 (3) If adequate personnel are available, each Commonwealth's attorney's office and
13 each county attorney's office shall have a child sexual abuse specialist.

14 (4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an
15 active part in interviewing and familiarizing the child alleged to have been abused,
16 or who is testifying as a witness, with the proceedings throughout the case,
17 beginning as early as practicable in the case.

18 (5) If adequate personnel are available, Commonwealth's attorneys and county attorneys
19 shall provide for an arrangement which allows one (1) lead prosecutor to handle the
20 case from inception to completion to reduce the number of persons involved with
21 the child victim.

22 (6) Commonwealth's attorneys and county attorneys and the Cabinet for Health and
23 Family Services~~[Families and Children]~~ and other team members shall minimize
24 the involvement of the child in legal proceedings, avoiding appearances at
25 preliminary hearings, grand jury hearings, and other proceedings when possible.

26 (7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for
27 counseling, private legal services, and other appropriate services to ensure the future

1 protection of the child when a decision is made not to prosecute the case. The
2 Commonwealth's attorney or county attorney shall explain the decision not to
3 prosecute to the family or guardian, as appropriate, and to the child victim.

- 4 (8) To the extent practicable and when in the best interest of a child alleged to have
5 been abused, interviews with a child shall be conducted at a children's advocacy
6 center.

7 Section 651. KRS 441.047 is amended to read as follows:

- 8 (1) Whenever a prisoner confined in the county jail is in need of psychiatric or similar
9 evaluation, treatment, or services, it shall be the responsibility of the
10 Commonwealth to provide such evaluation, treatment, or services at the expense of
11 the Commonwealth at the nearest state-operated or state-supported facility suitable
12 for the provision of the required evaluation, treatment, or services at no cost to the
13 county.

- 14 (2) Whenever a criminal defendant is in need of psychiatric, sociological, or similar
15 evaluation in connection with the criminal proceedings in which he is a defendant it
16 shall be the responsibility of the Commonwealth to provide the evaluation at the
17 nearest state-operated or state-supported facility suitable for the provision of the
18 required evaluation at no cost to the county.

- 19 (3) In the event that no suitable state-operated or state-supported facility is located
20 within a reasonable distance, then the evaluation may be made at a suitable local
21 facility or at the jail. In such instances a request must first be made to the Cabinet
22 for Health and Family Services to provide the evaluation, treatment, or service
23 unless the situation is an emergency requiring immediate attention. If the cabinet
24 cannot provide the service or if the situation is an emergency, then local resources
25 may be utilized.

- 26 (4) In the event that local resources are utilized in an emergency situation, or when the
27 Cabinet for Health and Family Services is unable to provide the evaluation,

1 treatment, or service, then the reasonable cost of providing such service, treatment,
2 or evaluation shall be paid from the State Treasury in the same manner as other
3 medical expenses of indigent prisoners confined in the county jail.

4 (5) The Cabinet for Health and Family Services shall administer the provisions of this
5 section and shall issue such administrative regulations as necessary to carry out the
6 provisions of this section.

7 Section 652. KRS 441.115 is amended to read as follows:

8 (1) For the purpose of raising the level of competence of jailers and jail personnel, the
9 department shall maintain a jail staff training program to provide training for jailers
10 and jail personnel consistent with the standards promulgated pursuant to KRS
11 441.055 and shall keep records of jailers and jail personnel who satisfactorily
12 complete basic and annual continuing education. The training program shall include
13 training on the human immunodeficiency virus infection and acquired
14 immunodeficiency syndrome approved by the Cabinet for Health and Family
15 Services. A curriculum advisory committee composed of jailers, their
16 representatives, and recognized professionals in the field of jail administration shall
17 advise the department concerning the training needs of jailers and jail personnel.
18 The jail staff training program shall be directed and staffed, in coordination with the
19 Governmental Services Center at Kentucky State University, by knowledgeable
20 persons who have sufficient experience, training, and education in jail operations.
21 The department shall not charge a fee for training jailers, their deputies, or jailers-
22 elect.

23 (2) Beginning in August, 1982, each jailer shall receive an expense allowance to help
24 defray the costs of his participation in the jail staff training program. The expense
25 allowance shall be in the amount of three hundred dollars (\$300) per month payable
26 out of the State Treasury. Expense allowance payments shall be discontinued if the
27 jailer fails to satisfactorily complete annual continuing training. Expense allowance

1 payments shall be resumed following a discontinuance for failure to satisfactorily
 2 complete basic or annual training only upon the jailer's satisfactory completion of
 3 the training.

4 (3) The allowance authorized in subsections (2) and (4) of this section shall be
 5 considered as operating expenses of the jailer's office and shall not be considered as
 6 part of his compensation. Jailers shall not be required to keep records verifying the
 7 expenditures from the allowance provided by the state.

8 (4) In order to receive the expense allowance for their first year in office, jailers who
 9 have been elected to office for the first time, shall, before taking office, successfully
 10 complete a training program designed for new jailers and conducted by the
 11 personnel of the jail staff training program. This provision shall not apply if the
 12 jailer-elect is ill and unable to complete the training before taking office. In such
 13 cases, the jailer-elect shall successfully complete a new jailer training program
 14 during his first year in office in order to receive the expense allowance. The county
 15 or urban-county government in which the jailer-elect serves shall pay out of the jail
 16 budget, once he takes office, all necessary and reasonable travel expenses incurred
 17 by the jailer-elect in attending the new jailer training program.

18 (5) All jailers shall successfully complete the training required. If a jailer does not
 19 successfully complete the required training within the time specified, he shall not
 20 receive the expense allowance specified in subsection (2) of this section until he
 21 successfully completes the required training.

22 Section 653. KRS 504.060 is amended to read as follows:

23 As used in this chapter, unless the context otherwise requires:

- 24 (1) "Department" means the Department of Corrections;
- 25 (2) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,
 26 designated by the secretary of the Cabinet for Health and Family Services for the
 27 purpose and function of providing inpatient evaluation, care, and treatment for

- 1 mentally ill or mentally retarded persons who have been charged with or convicted
2 of a felony;
- 3 (3) "Foreseeable future" means not more than three hundred sixty (360) days;
- 4 (4) "Incompetency to stand trial" means, as a result of mental condition, lack of
5 capacity to appreciate the nature and consequences of the proceedings against one
6 or to participate rationally in one's own defense;
- 7 (5) "Insanity" means, as a result of mental condition, lack of substantial capacity either
8 to appreciate the criminality of one's conduct or to conform one's conduct to the
9 requirements of law;
- 10 (6) "Mental illness" means substantially impaired capacity to use self-control,
11 judgment, or discretion in the conduct of one's affairs and social relations,
12 associated with maladaptive behavior or recognized emotional symptoms where
13 impaired capacity, maladaptive behavior, or emotional symptoms can be related to
14 physiological, psychological, or social factors;
- 15 (7) "Mental retardation" means significantly subaverage general intellectual functioning
16 existing concurrently with deficits in adaptive behavior and manifested during the
17 developmental period and is a condition which may exist concurrently with mental
18 illness or insanity;
- 19 (8) "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is
20 certified or eligible to apply for certification by the American Board of Psychiatry
21 and Neurology, Inc.;
- 22 (9) "Psychologist" means a person licensed at the doctoral level pursuant to KRS
23 Chapter 319 who has been designated by the Kentucky Board of Examiners of
24 Psychology as competent to perform examinations;
- 25 (10) "Treatment" means medication or counseling, therapy, psychotherapy, and other
26 professional services provided by or at the direction of psychologists or
27 psychiatrists. "Treatment" shall not include electroshock therapy or psychosurgery;

1 and

2 (11) "Treatment facility" means an institution or part thereof, approved by the Cabinet
3 for Health and Family Services, which provides evaluation, care, and treatment for
4 insane, mentally ill, or mentally retarded persons on an inpatient or outpatient basis,
5 or both.

6 Section 654. KRS 504.080 is amended to read as follows:

7 (1) A court may commit a defendant to a treatment facility or forensic psychiatric
8 facility for up to thirty (30) days so that a psychologist or psychiatrist can examine,
9 treat, and report on the defendant's mental condition, except that if the defendant is
10 charged with a felony and it is determined that inpatient examination or treatment is
11 required, the defendant shall be committed to a forensic psychiatric facility unless
12 the secretary of the Cabinet for Health and Family Services or the secretary's
13 designee determines that the defendant shall be examined and treated in another
14 Cabinet for Health and Family Services facility.

15 (2) Reports on a defendant's mental condition prepared under this chapter shall be filed
16 within ten (10) days of the examination.

17 (3) The defendant shall be present at any hearing on his mental condition unless he
18 waives his right to be present.

19 (4) The examining psychologist or psychiatrist shall appear at any hearing on
20 defendant's mental condition unless the defendant waives his right to have him
21 appear.

22 (5) A psychologist or psychiatrist retained by the defendant shall be permitted to
23 participate in any examination under this chapter.

24 (6) The Cabinet for Health and Family Services, if the cabinet or its agent or employee
25 does not provide the examination, shall pay a reasonable fee to any psychologist or
26 psychiatrist ordered to examine, treat, and report on a defendant's mental condition.

27 (7) The termination of criminal proceedings under this chapter is not a bar to the

1 institution of civil commitment proceedings.

2 Section 655. KRS 504.110 is amended to read as follows:

- 3 (1) If the court finds the defendant incompetent to stand trial but there is a substantial
4 probability he will attain competency in the foreseeable future, it shall commit the
5 defendant to a treatment facility or a forensic psychiatric facility and order him to
6 submit to treatment for sixty (60) days or until the psychologist or psychiatrist
7 treating him finds him competent, whichever occurs first, except that if the
8 defendant is charged with a felony, he shall be committed to a forensic psychiatric
9 facility unless the secretary of the Cabinet for Health and Family Services or the
10 secretary's designee determines that the defendant shall be treated in another
11 Cabinet for Health and Family Services facility. Within ten (10) days of that time,
12 the court shall hold another hearing to determine whether or not the defendant is
13 competent to stand trial.
- 14 (2) If the court finds the defendant incompetent to stand trial but there is no substantial
15 probability he will attain competency in the foreseeable future, it shall conduct an
16 involuntary hospitalization proceeding under KRS Chapter 202A or 202B.
- 17 (3) If the court finds the defendant competent to stand trial, the court shall continue the
18 proceedings against the defendant.

19 Section 656. KRS 510.320 is amended to read as follows:

- 20 (1) For purposes of this section, "human immunodeficiency virus test" means a test of
21 an individual for presence of human immunodeficiency virus, or for antibodies or
22 antigens that result from human immunodeficiency virus infection, or for any other
23 substance specifically indicating human immunodeficiency virus infection.
- 24 (2) A defendant charged with an offense pursuant to this chapter which has sexual
25 intercourse or deviate sexual intercourse as an element, or has sexual contact as an
26 element when the circumstances of the case demonstrate a possibility of
27 transmission of human immunodeficiency virus, shall upon initial court appearance

1 on the charge, be informed by the judge of the availability of human
2 immunodeficiency virus testing. The judge shall also notify the victim of the
3 offense, or parent or guardian of the victim, that the defendant has been so notified.

4 (3) When a defendant has been convicted of any offense in subsection (2) of this
5 section, other provisions of law to the contrary notwithstanding, the sentencing
6 court, regardless of any prior human immunodeficiency virus test, shall order the
7 defendant to undergo a human immunodeficiency virus test, under the direction of
8 the Cabinet for Health and Family Services.

9 (4) (a) The result of any human immunodeficiency virus test conducted pursuant to
10 this section shall not be a public record for purposes of KRS Chapter 61.

11 (b) The result of any human immunodeficiency virus test conducted pursuant to
12 this section shall only be made available by the Cabinet for Health and
13 Family Services to the victim, or the parent or guardian of a victim who is a
14 minor or is mentally retarded or mentally incapacitated, the defendant, the
15 court issuing the order for testing, and to any other agency as directed
16 pursuant to KRS Chapter 214.

17 (c) The Cabinet for Health and Family Services shall immediately provide to the
18 victim the results of any human immunodeficiency virus test conducted under
19 this section.

20 (d) In addition, the Cabinet for Health and Family Services shall provide to the
21 Department of Corrections the result of any human immunodeficiency virus
22 test conducted pursuant to this section which indicates that the defendant is
23 infected with the human immunodeficiency virus. The Department of
24 Corrections shall use this information solely for the purpose of providing
25 medical treatment to the defendant while incarcerated in a state penitentiary or
26 correctional institution or county jail.

27 (5) If the human immunodeficiency virus test indicates the presence of human

1 immunodeficiency virus infection, the Cabinet for Health and Family Services shall
2 provide counseling to the victim and the defendant regarding human
3 immunodeficiency virus disease, and referral for appropriate health-care and
4 support services.

5 (6) The cost of testing under this section shall be paid by the defendant tested, unless
6 the court has determined the defendant to be indigent.

7 (7) Filing of a notice of appeal shall not automatically stay an order that the defendant
8 submit to a human immunodeficiency virus test.

9 Section 657. KRS 529.090 is amended to read as follows:

10 (1) Any person convicted of prostitution or procuring another to commit prostitution
11 under the provisions of KRS 529.020 shall be required to undergo screening for
12 human immunodeficiency virus infection under direction of the Cabinet for Health
13 and Family Services and, if infected, shall submit to treatment and counseling as a
14 condition of release from probation, community control, or incarceration.
15 Notwithstanding the provisions of KRS 214.420, the results of any test conducted
16 pursuant to this subsection shall be made available by the Cabinet for Health and
17 Family Services to medical personnel, appropriate state agencies, or courts of
18 appropriate jurisdiction to enforce the provisions of this chapter.

19 (2) Any person who commits prostitution and who, prior to the commission of the
20 crime, had tested positive for a sexually transmitted disease and knew or had been
21 informed that he had tested positive for a sexually transmitted disease pursuant to
22 KRS 214.410 and that he could possibly communicate such disease to another
23 person through sexual activity is guilty of a Class A misdemeanor. A person may be
24 convicted and sentenced separately for a violation of this subsection and for the
25 underlying crime of prostitution.

26 (3) Any person who commits, offers, or agrees to commit prostitution by engaging in
27 sexual activity in a manner likely to transmit the human immunodeficiency virus

1 and who, prior to the commission of the crime, had tested positive for human
2 immunodeficiency virus and knew or had been informed that he had tested positive
3 for human immunodeficiency virus and that he could possibly communicate the
4 disease to another person through sexual activity is guilty of a Class D felony. A
5 person may be convicted and sentenced separately for a violation of this subsection
6 and for the underlying crime of prostitution.

- 7 (4) Any person convicted of procuring another to commit prostitution in a manner
8 likely to transmit the human immunodeficiency virus and who, prior to the
9 commission of the crime, had tested positive for human immunodeficiency virus
10 and knew or had been informed that he had tested positive for human
11 immunodeficiency virus and that he could possibly communicate the disease to
12 another person through sexual activity is guilty of a Class D felony.

13 Section 658. KRS 533.030 is amended to read as follows:

- 14 (1) The conditions of probation and conditional discharge shall be such as the court, in
15 its discretion, deems reasonably necessary to insure that the defendant will lead a
16 law-abiding life or to assist him to do so. The court shall provide as an explicit
17 condition of every sentence to probation or conditional discharge that the defendant
18 not commit another offense during the period for which the sentence remains
19 subject to revocation.

- 20 (2) When imposing a sentence of probation or conditional discharge, the court may, in
21 addition to any other reasonable condition, require that the defendant:

- 22 (a) Avoid injurious or vicious habits;
23 (b) Avoid persons or places of disreputable or harmful character;
24 (c) Work faithfully at suitable employment as far as possible;
25 (d) Undergo available medical or psychiatric treatment and remain in a specific
26 institution as required for that purpose;
27 (e) Post a bond, without surety, conditioned on performance of any of the

- 1 prescribed conditions;
- 2 (f) Support his dependents and meet other family responsibilities;
- 3 (g) Pay the cost of the proceeding as set by the court;
- 4 (h) Remain within a specified area;
- 5 (i) Report to the probation officer as directed;
- 6 (j) Permit the probation officer to visit him at his home or elsewhere;
- 7 (k) Answer all reasonable inquiries by the probation officer and promptly notify
- 8 the probation officer of any change in address or employment; and
- 9 (l) Submit to periodic testing for the use of controlled substances or alcohol, if
- 10 the defendant's record indicates a controlled substance or alcohol problem,
- 11 and to pay a reasonable fee, as determined by the court, which fee shall not
- 12 exceed the actual cost of the test and analysis and shall be paid directly to the
- 13 agency or agencies responsible for testing and analysis as compensation for
- 14 the cost of the testing and analysis, as specified by written order of the court,
- 15 performed under this subsection. For good cause shown, the testing fee may
- 16 be waived by the court.
- 17 (3) When imposing a sentence of probation or conditional discharge in a case where a
- 18 victim of a crime has suffered monetary damage as a result of the crime due to his
- 19 property having been converted, stolen, or unlawfully obtained, or its value
- 20 substantially decreased as a result of the crime, or where the victim suffered actual
- 21 medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of
- 22 the crime, or if as a direct result of the crime the victim incurred medical expenses
- 23 that were paid by the Cabinet for Health and Family Services, the Crime Victims
- 24 Compensation Board, or any other governmental entity, the court shall order the
- 25 defendant to make restitution in addition to any other penalty provided for the
- 26 commission of the offense. Payment of restitution to the victim shall have priority
- 27 over payment of restitution to any government agency. Restitution shall be ordered

1 in the full amount of the damages, unless the damages exceed one hundred thousand
2 dollars (\$100,000) or twice the amount of the gain from the commission of the
3 offense, whichever is greater, in which case the higher of these two (2) amounts
4 shall be awarded. The court may, in lieu of ordering monetary restitution, order the
5 defendant to make restitution by working for or on behalf of the victim. The court
6 shall determine the number of hours of work necessary by applying the then-
7 prevailing federal minimum wage to the total amount of monetary damage caused
8 by or incidental to the commission of the crime. The court may, with the consent of
9 the agency, order the defendant to work as specified in KRS 533.070. Any work
10 ordered pursuant to this section shall not be deemed employment for any purpose,
11 nor shall the person performing the work be deemed an employee for any purpose.
12 Where there is more than one (1) defendant or more than one (1) victim, restitution
13 may be apportioned. Restitution shall be subject to the following additional terms
14 and conditions:

- 15 (a) Where property which is unlawfully in the possession of the defendant is in
16 substantially undamaged condition from its condition at the time of the taking,
17 return of the property shall be ordered in lieu of monetary restitution;
- 18 (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray
19 the administrative costs of collection of payments or property. This fee shall
20 be paid by the defendant and shall inure to a trust and agency account which
21 shall not lapse and which shall be used to hire additional deputy clerks and
22 office personnel or increase deputy clerk or office personnel salaries, or
23 combination thereof;
- 24 (c) When a defendant fails to make restitution ordered to be paid through the
25 circuit clerk or a court-authorized program run by the county attorney or the
26 Commonwealth's attorney, the circuit clerk or court-authorized program shall
27 notify the court; and

- 1 (d) An order of restitution shall not preclude the owner of property or the victim
2 who suffered personal physical or mental injury or out-of-pocket loss of
3 earnings or support or other damages from proceeding in a civil action to
4 recover damages from the defendant. A civil verdict shall be reduced by the
5 amount paid under the criminal restitution order.
- 6 (4) When requiring fees for controlled substances or alcohol tests, or other fees and
7 payments authorized by this section or other statute, except restitution, to be paid by
8 the defendant, the court shall not order the payments to be paid through the circuit
9 clerk.
- 10 (5) When a defendant is sentenced to probation or conditional discharge, he shall be
11 given a written statement explicitly setting forth the conditions under which he is
12 being released.
- 13 (6) When imposing a sentence of probation or conditional discharge, the court, in
14 addition to conditions imposed under this section, may require as a condition of the
15 sentence that the defendant submit to a period of imprisonment in the county jail or
16 to a period of home incarceration at whatever time or intervals, consecutive or
17 nonconsecutive, the court shall determine. The time actually spent in confinement
18 or home incarceration pursuant to this provision shall not exceed twelve (12)
19 months or the maximum term of imprisonment assessed pursuant to KRS Chapter
20 532, whichever is the shorter. Time spent in confinement or home incarceration
21 under this subsection shall be credited against the maximum term of imprisonment
22 assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional
23 discharge is revoked and the defendant is sentenced to imprisonment. Any
24 prohibitions against probation, shock probation, or conditional discharge under
25 KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor
26 or Class D felony and sentenced to a period of confinement or home incarceration
27 under this section.

1 Section 659. KRS 600.020 is amended to read as follows:

2 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

3 (1) "Abused or neglected child" means a child whose health or welfare is harmed or
4 threatened with harm when his parent, guardian, or other person exercising
5 custodial control or supervision of the child:

6 (a) Inflicts or allows to be inflicted upon the child physical or emotional injury as
7 defined in this section by other than accidental means;

8 (b) Creates or allows to be created a risk of physical or emotional injury as
9 defined in this section to the child by other than accidental means;

10 (c) Engages in a pattern of conduct that renders the parent incapable of caring for
11 the immediate and ongoing needs of the child including, but not limited to,
12 parental incapacity due to alcohol and other drug abuse as defined in KRS
13 222.005;

14 (d) Continuously or repeatedly fails or refuses to provide essential parental care
15 and protection for the child, considering the age of the child;

16 (e) Commits or allows to be committed an act of sexual abuse, sexual
17 exploitation, or prostitution upon the child;

18 (f) Creates or allows to be created a risk that an act of sexual abuse, sexual
19 exploitation, or prostitution will be committed upon the child;

20 (g) Abandons or exploits the child; or

21 (h) Does not provide the child with adequate care, supervision, food, clothing,
22 shelter, and education or medical care necessary for the child's well-being. A
23 parent or other person exercising custodial control or supervision of the child
24 legitimately practicing the person's religious beliefs shall not be considered a
25 negligent parent solely because of failure to provide specified medical
26 treatment for a child for that reason alone. This exception shall not preclude a
27 court from ordering necessary medical services for a child; or

- 1 (i) Fails to make sufficient progress toward identified goals as set forth in the
2 court-approved case plan to allow for the safe return of the child to the parent
3 that results in the child remaining committed to the cabinet and remaining in
4 foster care for fifteen (15) of the most recent twenty-two (22) months;
- 5 (2) "Aggravated circumstances" means the existence of one (1) or more of the
6 following conditions:
- 7 (a) The parent has not attempted or has not had contact with the child for a period
8 of not less than ninety (90) days;
- 9 (b) The parent is incarcerated and will be unavailable to care for the child for a
10 period of at least one (1) year from the date of the child's entry into foster care
11 and there is no appropriate relative placement available during this period of
12 time;
- 13 (c) The parent has sexually abused the child and has refused available treatment;
- 14 (d) The parent has been found by the cabinet to have engaged in abuse of the
15 child that required removal from the parent's home two (2) or more times in
16 the past two (2) years; or
- 17 (e) The parent has caused the child serious physical injury;
- 18 (3) "Beyond the control of parents" means a child who has repeatedly failed to follow
19 the reasonable directives of his or her parents, legal guardian, or person exercising
20 custodial control or supervision other than a state agency, which behavior results in
21 danger to the child or others, and which behavior does not constitute behavior that
22 would warrant the filing of a petition under KRS Chapter 645;
- 23 (4) "Beyond the control of school" means any child who has been found by the court to
24 have repeatedly violated the lawful regulations for the government of the school as
25 provided in KRS 158.150, and as documented in writing by the school as a part of
26 the school's petition or as an attachment to the school's petition. The petition or
27 attachment shall describe the student's behavior and all intervention strategies

- 1 attempted by the school;
- 2 (5) "Boarding home" means a privately owned and operated home for the boarding and
 3 lodging of individuals which is approved by the Department of Juvenile Justice or
 4 the cabinet for the placement of children committed to the department or the
 5 cabinet;
- 6 (6) "Cabinet" means the Cabinet for Health and Family Services~~[Families and~~
 7 ~~Children]~~;
- 8 (7) "Certified juvenile facility staff" means individuals who meet the qualifications of,
 9 and who have completed a course of education and training in juvenile detention
 10 developed and approved by, the Department of Juvenile Justice after consultation
 11 with other appropriate state agencies;
- 12 (8) "Child" means any person who has not reached his eighteenth birthday, unless
 13 otherwise provided;
- 14 (9) "Child-caring facility" means any facility or group home other than a state facility,
 15 Department of Juvenile Justice contract facility or group home, or one certified by
 16 an appropriate agency as operated primarily for educational or medical purposes,
 17 providing residential care on a twenty-four (24) hour basis to children not related by
 18 blood, adoption, or marriage to the person maintaining the facility;
- 19 (10) "Child-placing agency" means any agency, other than a state agency, which
 20 supervises the placement of children in foster family homes or child-caring facilities
 21 or which places children for adoption;
- 22 (11) "Clinical treatment facility" means a facility with more than eight (8) beds
 23 designated by the Department of Juvenile Justice or the cabinet for the treatment of
 24 mentally ill children. The treatment program of such facilities shall be supervised by
 25 a qualified mental health professional;
- 26 (12) "Commitment" means an order of the court which places a child under the custodial
 27 control or supervision of the Cabinet for Health and Family Services~~[Families and~~

- 1 ~~Children~~, Department of Juvenile Justice, or another facility or agency until the
 2 child attains the age of eighteen (18) unless the commitment is discharged under
 3 KRS Chapter 605 or the committing court terminates or extends the order;
- 4 (13) "Community-based facility" means any nonsecure, homelike facility licensed,
 5 operated, or permitted to operate by the Department of Juvenile Justice or the
 6 cabinet, which is located within a reasonable proximity of the child's family and
 7 home community, which affords the child the opportunity, if a Kentucky resident, to
 8 continue family and community contact;
- 9 (14) "Complaint" means a verified statement setting forth allegations in regard to the
 10 child which contain sufficient facts for the formulation of a subsequent petition;
- 11 (15) "Court" means the juvenile session of District Court unless a statute specifies the
 12 adult session of District Court or the Circuit Court;
- 13 (16) "Court-designated worker" means that organization or individual delegated by the
 14 Administrative Office of the Courts for the purposes of placing children in
 15 alternative placements prior to arraignment, conducting preliminary investigations,
 16 and formulating, entering into, and supervising diversion agreements and
 17 performing such other functions as authorized by law or court order;
- 18 (17) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 19 (18) "Department" means the Department for Community Based Services;
- 20 (19) "Dependent child" means any child, other than an abused or neglected child, who is
 21 under improper care, custody, control, or guardianship that is not due to an
 22 intentional act of the parent, guardian, or person exercising custodial control or
 23 supervision of the child;
- 24 (20) "Detention" means the safe and temporary custody of a juvenile who is accused of
 25 conduct subject to the jurisdiction of the court who requires a restricted
 26 environment for his or her own or the community's protection;
- 27 (21) "Detention hearing" means a hearing held by a judge or trial commissioner within

- 1 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
2 period of detention prior to adjudication;
- 3 (22) "Diversion agreement" means an agreement entered into between a court-designated
4 worker and a child charged with the commission of offenses set forth in KRS
5 Chapters 630 and 635, the purpose of which is to serve the best interest of the child
6 and to provide redress for those offenses without court action and without the
7 creation of a formal court record;
- 8 (23) "Emergency shelter" is a group home, private residence, foster home, or similar
9 homelike facility which provides temporary or emergency care of children and
10 adequate staff and services consistent with the needs of each child;
- 11 (24) "Emotional injury" means an injury to the mental or psychological capacity or
12 emotional stability of a child as evidenced by a substantial and observable
13 impairment in the child's ability to function within a normal range of performance
14 and behavior with due regard to his age, development, culture, and environment as
15 testified to by a qualified mental health professional;
- 16 (25) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 17 (26) "Foster family home" means a private home in which children are placed for foster
18 family care under supervision of the cabinet or a licensed child-placing agency;
- 19 (27) "Habitual runaway" means any child who has been found by the court to have been
20 absent from his place of lawful residence without the permission of his custodian
21 for at least three (3) days during a one (1) year period;
- 22 (28) "Habitual truant" means any child who has been found by the court to have been
23 reported as a truant as defined in KRS 159.150 three (3) or more times during a one
24 (1) year period;
- 25 (29) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
26 public facility, health care facility, or part thereof, which is approved by the cabinet
27 to treat children;

- 1 (30) "Independent living" means those activities necessary to assist a committed child to
2 establish independent living arrangements;
- 3 (31) "Informal adjustment" means an agreement reached among the parties, with
4 consultation, but not the consent, of the victim of the crime or other persons
5 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
6 after a petition has been filed, which is approved by the court, that the best interest
7 of the child would be served without formal adjudication and disposition;
- 8 (32) "Intentionally" means, with respect to a result or to conduct described by a statute
9 which defines an offense, that the actor's conscious objective is to cause that result
10 or to engage in that conduct;
- 11 (33) "Intermittent holding facility" means a physically secure setting, which is entirely
12 separated from sight and sound from all other portions of a jail containing adult
13 prisoners, in which a child accused of a public offense may be detained for a period
14 not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a
15 detention hearing as provided for in KRS 610.265, and in which children are
16 supervised and observed on a regular basis by certified juvenile facility staff;
- 17 (34) "Juvenile holding facility" means a physically secure facility, approved by the
18 Department of Juvenile Justice, which is an entirely separate portion or wing of a
19 building containing an adult jail, which provides total sight and sound separation
20 between juvenile and adult facility spatial areas and which is staffed by sufficient
21 certified juvenile facility staff to provide twenty-four (24) hours per day
22 supervision;
- 23 (35) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
24 the program developed on the child's behalf is no more harsh, hazardous, or
25 intrusive than necessary; or involves no restrictions on physical movements nor
26 requirements for residential care except as reasonably necessary for the protection
27 of the child from physical injury; or protection of the community, and is conducted

- 1 at the suitable available facility closest to the child's place of residence;
- 2 (36) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
3 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 4 (37) "Near fatality" means an injury that, as certified by a physician, places a child in
5 serious or critical condition;
- 6 (38) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 7 (39) "Nonsecure facility" means a facility which provides its residents access to the
8 surrounding community and which does not rely primarily on the use of physically
9 restricting construction and hardware to restrict freedom;
- 10 (40) "Nonsecure setting" means a nonsecure facility or a residential home, including a
11 child's own home, where a child may be temporarily placed pending further court
12 action. Children before the court in a county that is served by a state operated secure
13 detention facility, who are in the detention custody of the Department of Juvenile
14 Justice, and who are placed in a nonsecure alternative by the Department of
15 Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 16 (41) "Parent" means the biological or adoptive mother or father of a child;
- 17 (42) "Person exercising custodial control or supervision" means a person or agency that
18 has assumed the role and responsibility of a parent or guardian for the child, but that
19 does not necessarily have legal custody of the child;
- 20 (43) "Petition" means a verified statement, setting forth allegations in regard to the child,
21 which initiates formal court involvement in the child's case;
- 22 (44) "Physical injury" means substantial physical pain or any impairment of physical
23 condition;
- 24 (45) "Physically secure facility" means a facility that relies primarily on the use of
25 construction and hardware such as locks, bars, and fences to restrict freedom;
- 26 (46) "Public offense action" means an action, excluding contempt, brought in the interest
27 of a child who is accused of committing an offense under KRS Chapter 527 or a

1 public offense which, if committed by an adult, would be a crime, whether the same
2 is a felony, misdemeanor, or violation, other than an action alleging that a child
3 sixteen (16) years of age or older has committed a motor vehicle offense;

4 (47) "Qualified mental health professional" means:

5 (a) A physician licensed under the laws of Kentucky to practice medicine or
6 osteopathy, or a medical officer of the government of the United States while
7 engaged in the performance of official duties;

8 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
9 osteopathy, or a medical officer of the government of the United States while
10 engaged in the practice of official duties, and who is certified or eligible to
11 apply for certification by the American Board of Psychiatry and Neurology,
12 Inc.;

13 (c) A psychologist with the health service provider designation, a psychological
14 practitioner, a certified psychologist, or a psychological associate licensed
15 under the provisions of KRS Chapter 319;

16 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
17 an accredited institution and two (2) years of clinical experience with mentally
18 ill persons, or a licensed registered nurse with a bachelor's degree in nursing
19 from an accredited institution who is certified as a psychiatric and mental
20 health nurse by the American Nurses Association and who has three (3) years
21 of inpatient or outpatient clinical experience in psychiatric nursing and who is
22 currently employed by a hospital or forensic psychiatric facility licensed by
23 the Commonwealth or a psychiatric unit of a general hospital or a regional
24 comprehensive care center;

25 (e) A licensed clinical social worker licensed under the provisions of KRS
26 335.100, or a certified social worker licensed under the provisions of KRS
27 335.080 with three (3) years of inpatient or outpatient clinical experience in

- 1 psychiatric social work and currently employed by a hospital or forensic
 2 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a
 3 general hospital or a regional comprehensive care center;
- 4 (f) A marriage and family therapist licensed under the provisions of KRS 335.300
 5 to 335.399 with three (3) years of inpatient or outpatient clinical experience in
 6 psychiatric mental health practice and currently employed by a hospital or
 7 forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit
 8 of a general hospital, or a regional comprehensive care center; or
- 9 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
 10 335.599 with three (3) years of inpatient or outpatient clinical experience in
 11 psychiatric mental health practice and currently employed by a hospital or
 12 forensic facility licensed by the Commonwealth, a psychiatric unit of a general
 13 hospital, or a regional comprehensive care center;
- 14 (48) "Residential treatment facility" means a facility or group home with more than eight
 15 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
 16 treatment of children;
- 17 (49) "Retain in custody" means, after a child has been taken into custody, the continued
 18 holding of the child by a peace officer for a period of time not to exceed twelve (12)
 19 hours when authorized by the court or the court-designated worker for the purpose
 20 of making preliminary inquiries;
- 21 (50) "School personnel" means those certified persons under the supervision of the local
 22 public or private education agency;
- 23 (51) "Secretary" means the secretary of the Cabinet for Health and Family
 24 Services~~[Families and Children]~~;
- 25 (52) "Secure juvenile detention facility" means any physically secure facility used for the
 26 secure detention of children other than any facility in which adult prisoners are
 27 confined;

- 1 (53) "Serious physical injury" means physical injury which creates a substantial risk of
2 death or which causes serious and prolonged disfigurement, prolonged impairment
3 of health, or prolonged loss or impairment of the function of any bodily member or
4 organ;
- 5 (54) "Sexual abuse" includes, but is not necessarily limited to, any contacts or
6 interactions in which the parent, guardian, or other person having custodial control
7 or supervision of the child or responsibility for his welfare, uses or allows, permits,
8 or encourages the use of the child for the purposes of the sexual stimulation of the
9 perpetrator or another person;
- 10 (55) "Sexual exploitation" includes, but is not limited to, a situation in which a parent,
11 guardian, or other person having custodial control or supervision of a child or
12 responsible for his welfare, allows, permits, or encourages the child to engage in an
13 act which constitutes prostitution under Kentucky law; or a parent, guardian, or
14 other person having custodial control or supervision of a child or responsible for his
15 welfare, allows, permits, or encourages the child to engage in an act of obscene or
16 pornographic photographing, filming, or depicting of a child as provided for under
17 Kentucky law;
- 18 (56) "Social service worker" means any employee of the cabinet or any private agency
19 designated as such by the secretary of the cabinet or a social worker employed by a
20 county or city who has been approved by the cabinet to provide, under its
21 supervision, services to families and children;
- 22 (57) "Staff secure facility for residential treatment" means any setting which assures that
23 all entrances and exits are under the exclusive control of the facility staff, and in
24 which a child may reside for the purpose of receiving treatment;
- 25 (58) "Status offense action" is any action brought in the interest of a child who is
26 accused of committing acts, which if committed by an adult, would not be a crime.
27 Such behavior shall not be considered criminal or delinquent and such children

1 shall be termed status offenders. Status offenses shall not include violations of state
2 or local ordinances which may apply to children such as a violation of curfew or
3 possession of alcoholic beverages;

4 (59) "Take into custody" means the procedure by which a peace officer or other
5 authorized person initially assumes custody of a child. A child may be taken into
6 custody for a period of time not to exceed two (2) hours;

7 (60) "Valid court order" means a court order issued by a judge to a child alleged or
8 found to be a status offender:

9 (a) Who was brought before the court and made subject to the order;

10 (b) Whose future conduct was regulated by the order;

11 (c) Who was given written and verbal warning of the consequences of the
12 violation of the order at the time the order was issued and whose attorney or
13 parent or legal guardian was also provided with a written notice of the
14 consequences of violation of the order, which notification is reflected in the
15 record of the court proceedings; and

16 (d) Who received, before the issuance of the order, the full due process rights
17 guaranteed by the Constitution of the United States.

18 (61) "Violation" means any offense, other than a traffic infraction, for which a sentence
19 of a fine only can be imposed;

20 (62) "Youth alternative center" means a nonsecure facility, approved by the Department
21 of Juvenile Justice, for the detention of juveniles, both prior to adjudication and
22 after adjudication, which meets the criteria specified in KRS 15A.320; and

23 (63) "Youthful offender" means any person regardless of age, transferred to Circuit
24 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently
25 convicted in Circuit Court.

26 Section 660. KRS 600.040 is amended to read as follows:

27 When KRS 605.090, 605.100, 605.110, 605.115, 610.110, or any other section of this

code refer jointly to the operation of a program or service by both the Department of Juvenile Justice and the Cabinet for *Health and Family Services*~~[Families and Children]~~, the following divisions are intended:

(1) Facilities, programs, and services relating to juveniles under KRS Chapter 635 or 640, or under KRS Chapter 645 as relates to a child who is mentally ill and who also comes within the purview of KRS Chapter 635 or 640, shall be the responsibility of the Department of Juvenile Justice.

(2) Facilities, programs, and services relating to juveniles under other chapters of the code, including KRS Chapter 630, shall be the responsibility of the Cabinet for *Health and Family Services*~~[Families and Children]~~.

Section 661. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to or in the custody of the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a

1 foster home and not less than every twelve (12) months thereafter.

2 (3) Children maintained in any of the facilities and programs operated or contracted by
3 the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a
4 common school education.

5 (a) The Kentucky Educational Collaborative for State Agency Children shall be
6 established to serve children in facilities and programs operated or contracted
7 by the Department of Juvenile Justice or the Cabinet for Health and Family
8 Services~~[Families and Children]~~, residential, day treatment, clinical, and
9 group home programs. All policies and procedures necessary to educate state
10 agency children shall be approved by the Kentucky Board of Education. All
11 duties, responsibilities, rights, and privileges specifically imposed on or
12 granted to the local education administration units shall be imposed on or
13 granted to the Department of Juvenile Justice or the Cabinet for Health and
14 Family Services~~[Families and Children]~~ and contracted agencies with regard
15 to educating agency children. Classrooms for the Kentucky Educational
16 Collaborative for State Agency Children shall be within or near the facilities
17 and programs operated or contracted by the Department of Juvenile Justice or
18 the cabinet. The Kentucky Department of Education, the Department of
19 Juvenile Justice, and the Cabinet for Health and Family Services~~[Families~~
20 ~~and Children]~~, Department for Community Based Services, shall develop a
21 biennial plan regarding the educational needs and provisions of educational
22 programs, with emphasis on the coordination of all treatment services and
23 funds available to provide for the education of state agency children. The
24 biennial plan shall include strategies to assure that teacher preparation
25 programs include content related to working with state agency children and
26 that adequate professional development opportunities for better meeting the
27 needs of these students are available for teachers and schools.

(b) Teachers and other staff shall be hired on contract through a local school district or if a local school district is not willing to participate, teachers may be hired by the Kentucky Educational Collaborative for State Agency Children or a contract may be entered into with a private provider of educational services. All certified educational staff hired by the Kentucky Educational Collaborative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;
3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
5. The funding for school services for state agency children authorized by KRS 158.135; and
6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Health and Family Services~~[Families and Children]~~ shall promulgate

administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:
 - a. Define the financial responsibility of each state and local agency for providing services to state agency children;
 - b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for *Health and Family Services*~~[Families and Children]~~.

- (e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.

(f) The commissioner of Juvenile Justice and the secretary of the Cabinet for **Health and Family Services**~~[Families and Children]~~ and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 662. KRS 605.115 is amended to read as follows:

The commissioner of the Department of Juvenile Justice and the secretary of the Cabinet for **Health and Family Services**~~[Families and Children]~~, with the cooperation of the Kentucky Board of Education and the commissioner of education, shall implement policies to assure that local school districts providing a funding match shall have direct access to Medicaid funding as Medicaid providers for the provision of health-related services to eligible children with disabilities under the age of twenty-one (21) years of age. They shall develop policies and procedures so the Department of Education can transfer the local school districts' matching funds to the Department for Medicaid Services. They shall also review state and federal statutes and regulations to determine the eligibility of local school districts to receive Medicaid reimbursement for health-related services identified on a child's individual education plan.

Section 663. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under

1 the jurisdiction of the court. The petition shall be filed or the court order entered no
2 sooner than two (2) years after the date of termination of the court's jurisdiction
3 over the person, or two (2) years after his unconditional release from commitment
4 to the Department of Juvenile Justice or the Cabinet for Health and Family
5 Services~~[Families and Children]~~ or a public or private agency, except that the two
6 (2) year period may be waived if the court finds that such extraordinary
7 circumstances exist with regard to the petitioner as to make the waiver advisable.

8 (2) Upon the filing of a petition or entering of a court order, the court shall set a date for
9 a hearing and shall notify the county attorney and anyone else whom the court or the
10 child, his parents, relatives, guardian, or custodian has reason to believe may have
11 relevant information related to the expungement of the record.

12 (3) The court shall order sealed all records in the petitioner's case in the custody of the
13 court and any of these records in the custody of any other agency or official,
14 including law enforcement and public or private elementary and secondary school
15 records, if at the hearing the court finds that:

16 (a) Since the termination of the court's jurisdiction or his unconditional release
17 from commitment to the Department of Juvenile Justice, the cabinet, or a
18 public or private agency, the person whose record is in question has not been
19 convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a);
20 and

21 (b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a)
22 is pending or being instituted against him.

23 (4) Upon the entry of an order to seal the records, the proceedings in the case shall be
24 deemed never to have occurred and all index references shall be deleted and the
25 person and court may properly reply that no record exists with respect to such
26 person upon any inquiry in the matter.

27 (5) Copies of the order shall be sent to each agency or official named therein.

- (6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 664. KRS 615.040 is amended to read as follows:

The following provisions apply to the compact described in KRS 615.030:

- (1) The following definitions apply to KRS 615.030:

(a) As used in paragraph (a) of Article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the Cabinet for **Health and Family Services**~~[Families and Children]~~.

(b) The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children shall, with reference to this state, mean the Cabinet for **Health and Family Services**~~[Families and Children]~~ and said cabinet shall receive and act with reference to notices required by said Article III.

(c) As used in Article VII of the interstate compact on the placement of children, the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

- (2) Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children:

(a) Shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of KRS 405.020 shall apply.

(b) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in another party state pursuant to

1 paragraph (b) of Article V of the interstate compact on the placement of
2 children. Any such agreement which contains a financial commitment or
3 imposes a financial obligation on this state or subdivision or agency thereof
4 shall not be binding unless it has the approval in writing of the secretary of the
5 Finance and Administration Cabinet in the case of the state and of the chief
6 local fiscal officer in the case of a subdivision of the state.

7 (3) Any court having jurisdiction to place delinquent children may place such a child in
8 an institution of or in another state pursuant to Article VI of the interstate compact
9 on the placement of children and shall retain jurisdiction as provided in Article V of
10 KRS 615.030 thereof.

11 (4) No person or institution shall bring or send, or cause to be brought or sent, a
12 dependent child into this state from another state for the purpose of placing him in a
13 family home, either with or without indenture or for adoption, without first filing a
14 ten thousand dollar (\$10,000) bond with the county judge/executive of the county in
15 which the child is to be placed.

16 (5) The bond shall be conditioned as follows:

17 (a) That they will not bring or send, or cause to be brought or sent, into this state
18 any child that is incorrigible or of unsound mind or body or who has any
19 contagious or incurable disease;

20 (b) That they will immediately, upon placing the child, report to the department
21 the name and age of the child, and the name and residence of the person with
22 whom he is placed;

23 (c) That if the child becomes a public charge before reaching his majority, they
24 will, within thirty (30) days after receiving written notice of such fact from the
25 department, remove the child from the state;

26 (d) That if the child is convicted of a crime or misdemeanor and is imprisoned,
27 within five (5) years of the time of his arrival, they will remove the child from

- 1 the state immediately upon his release;
- 2 (e) That they will place each dependent child by written contract with a person
3 who will furnish the child a proper home, and will make the person receiving
4 the child responsible for its proper care, education, and training;
- 5 (f) That they will properly supervise the care and training of the child, and visit
6 each child at least once a year;
- 7 (g) That they will make such reports to the department as the department requires.
- 8 (6) The provisions of KRS 615.030 shall not apply to a parent, stepparent, grandparent,
9 adult brother or sister, or adult uncle or aunt going to any other state or country and
10 bringing a child into this state for the purpose of giving it a home in his own family,
11 and may be waived by the department for any child brought into the state under the
12 supervision of the division or licensed child-caring or child-placing institution or
13 agency by written agreement with the responsible agency of the other state or
14 country, or under special circumstances agreed to in writing by the cabinet and the
15 persons wishing to import a child.
- 16 (7) The provisions of subsections (4) and (5) of this section shall not apply to
17 placements made pursuant to the interstate compact on the placement of children.
- 18 Section 665. KRS 620.040 is amended to read as follows:
- 19 (1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or
20 person exercising custodial control or supervision, pursuant to KRS
21 620.030(1) or (2), the recipient of the report shall immediately notify the
22 cabinet or its designated representative, the local law enforcement agency or
23 Kentucky State Police, and the Commonwealth's or county attorney of the
24 receipt of the report unless they are the reporting source.
- 25 (b) Based upon the allegation in the report, the cabinet shall immediately make an
26 initial determination as to the risk of harm and immediate safety of the child.
27 Based upon the level of risk determined, the cabinet shall investigate the

1 allegation or accept the report for an assessment of family needs and, if
2 appropriate, may provide or make referral to any community-based services
3 necessary to reduce risk to the child and to provide family support. A report of
4 sexual abuse shall be considered high risk and shall not be referred to any
5 other community agency.

6 (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and
7 holidays, make a written report to the Commonwealth's or county attorney and
8 the local enforcement agency or Kentucky State Police concerning the action
9 that has been taken on the investigation.

10 (d) If the report alleges abuse or neglect by someone other than a parent, guardian,
11 or person exercising custodial control or supervision, the cabinet shall
12 immediately notify the Commonwealth's or county attorney and the local law
13 enforcement agency or Kentucky State Police.

14 (2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and
15 (2), the recipient shall immediately notify the cabinet or its designated
16 representative.

17 (b) Based upon the allegation in the report, the cabinet shall immediately make an
18 initial determination as to the risk of harm and immediate safety of the child.
19 Based upon the level of risk, the cabinet shall investigate the allegation or
20 accept the report for an assessment of family needs and, if appropriate, may
21 provide or make referral to any community-based services necessary to reduce
22 risk to the child and to provide family support. A report of sexual abuse shall
23 be considered high risk and shall not be referred to any other community
24 agency.

25 (c) The cabinet need not notify the local law enforcement agency or Kentucky
26 State Police or county attorney or Commonwealth's attorney of reports made
27 under this subsection.

- 1 (3) If the cabinet or its designated representative receives a report of abuse by a person
2 other than a parent, guardian, or other person exercising custodial control or
3 supervision of a child, it shall immediately notify the local law enforcement agency
4 or Kentucky State Police and the Commonwealth's or county attorney of the receipt
5 of the report and its contents and they shall investigate the matter. The cabinet or its
6 designated representative shall participate in an investigation of noncustodial
7 physical abuse or neglect at the request of the local law enforcement agency or the
8 Kentucky State Police. The cabinet shall participate in all investigations of reported
9 or suspected sexual abuse of a child.
- 10 (4) School personnel or other persons listed in KRS 620.030(2) do not have the
11 authority to conduct internal investigations in lieu of the official investigations
12 outlined in this section.
- 13 (5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its
14 designated representative cannot gain admission to the location of the child, a
15 search warrant shall be requested from, and may be issued by, the judge to the
16 appropriate law enforcement official upon probable cause that the child is
17 dependent, neglected, or abused. If, pursuant to a search under a warrant a
18 child is discovered and appears to be in imminent danger, the child may be
19 removed by the law enforcement officer.
- 20 (b) If a child who is in a hospital or under the immediate care of a physician
21 appears to be in imminent danger if he is returned to the persons having
22 custody of him, the physician or hospital administrator may hold the child
23 without court order, provided that a request is made to the court for an
24 emergency custody order at the earliest practicable time, not to exceed
25 seventy-two (72) hours.
- 26 (c) Any appropriate law enforcement officer may take a child into protective
27 custody and may hold that child in protective custody without the consent of

1 the parent or other person exercising custodial control or supervision if there
2 exist reasonable grounds for the officer to believe that the child is in danger of
3 imminent death or serious physical injury or is being sexually abused and that
4 the parents or other person exercising custodial control or supervision are
5 unable or unwilling to protect the child. The officer or the person to whom the
6 officer entrusts the child shall, within twelve (12) hours of taking the child
7 into protective custody, request the court to issue an emergency custody order.

8 (d) When a law enforcement officer, hospital administrator, or physician takes a
9 child into custody without the consent of the parent or other person exercising
10 custodial control or supervision, he or she shall provide written notice to the
11 parent or other person stating the reasons for removal of the child. Failure of
12 the parent or other person to receive notice shall not, by itself, be cause for
13 civil or criminal liability.

14 (6) To the extent practicable and when in the best interest of a child alleged to have
15 been abused, interviews with the child shall be conducted at a children's advocacy
16 center.

17 (7) (a) One (1) or more multidisciplinary teams may be established in every county or
18 group of contiguous counties.

19 (b) Membership of the multidisciplinary team shall include, but shall not be
20 limited to, social service workers employed by the Cabinet for Health and
21 Family Services~~[Families and Children]~~ and law enforcement officers.
22 Additional team members may include Commonwealth's and county
23 attorneys, children's advocacy center staff, mental health professionals,
24 medical professionals, victim advocates, educators, and other related
25 professionals, as deemed appropriate.

26 (c) The multidisciplinary team may review child sexual abuse cases referred by
27 participating professionals, including those in which the alleged perpetrator

1 does not have custodial control or supervision of the child, or is not
2 responsible for the child's welfare. The purpose of the multidisciplinary team
3 shall be to review investigations, assess service delivery, and to facilitate
4 efficient and appropriate disposition of cases through the criminal justice
5 system.

6 (d) The team shall hold regularly scheduled meetings if new reports of sexual
7 abuse are received or if active cases exist. At each meeting, each active case
8 shall be presented and the agencies' responses assessed.

9 (e) The multidisciplinary team shall provide an annual report to the public of
10 nonidentifying case information to allow assessment of the processing and
11 disposition of child sexual abuse cases.

12 (f) Multidisciplinary team members and anyone invited by the multidisciplinary
13 team to participate in a meeting shall not divulge case information, including
14 information regarding the identity of the victim or source of the report. Team
15 members and others attending meetings shall sign a confidentiality statement
16 that is consistent with statutory prohibitions on disclosure of this information.

17 (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660,
18 develop a local protocol consistent with the model protocol issued by the
19 Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local
20 team shall submit the protocol to the commission for review and approval.

21 (h) The multidisciplinary team review of a case may include information from
22 reports generated by agencies, organizations, or individuals that are
23 responsible for investigation, prosecution, or treatment in the case, KRS
24 610.320 to KRS 610.340 notwithstanding.

25 (i) To the extent practicable, multidisciplinary teams shall be staffed by the local
26 children's advocacy center.

27 Section 666. KRS 620.100 is amended to read as follows:

- 1 (1) If the court determines, as a result of a temporary removal hearing, that further
 2 proceedings are required, the court shall advise the child and his parent or other
 3 person exercising custodial control or supervision of their right to appointment of
 4 separate counsel:
- 5 (a) The court shall appoint counsel for the child to be paid for by the Finance and
 6 Administration Cabinet. The clerk of the court shall arrange for service on all
 7 parties, including the local representative of the Cabinet for Health and
 8 Family Services~~[Families and Children]~~, of the order appointing counsel. The
 9 fee to be fixed by the court shall not exceed five hundred dollars (\$500);
 10 however, if the action has final disposition in the District Court, the fee shall
 11 not exceed two hundred fifty dollars (\$250);
- 12 (b) The court shall appoint separate counsel for the parent who exercises custodial
 13 control or supervision if the parent is unable to afford counsel pursuant to
 14 KRS Chapter 31. The clerk of the court shall arrange for service on all parties,
 15 including the local representative of the Cabinet for Health and Family
 16 Services~~[Families and Children]~~, of the order appointing counsel. The parent's
 17 counsel shall be provided or paid for by the Finance and Administration
 18 Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars
 19 (\$500); however, if the action has final disposition in the District Court, the
 20 fee shall not exceed two hundred fifty dollars (\$250);
- 21 (c) The court may, in the interest of justice, appoint separate counsel for a
 22 nonparent who exercises custodial control or supervision of the child, if the
 23 person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of
 24 the court shall arrange for service on all parties, including the local
 25 representative of the Cabinet for Health and Family Services~~[Families and~~
 26 ~~Children]~~, of the order appointing counsel. Counsel for the person shall be
 27 provided or paid for by the Finance and Administration Cabinet. The fee to be

1 fixed by the court shall not exceed five hundred dollars (\$500); however, if
 2 the action has final disposition in the District Court, the fee shall not exceed
 3 two hundred fifty dollars (\$250); and

4 (d) The court may, in the interest of justice, appoint a court-appointed special
 5 advocate volunteer to represent the best interests of the child pursuant to KRS
 6 620.500 to 620.550. The clerk of the court shall arrange for service on all
 7 parties, including the local representative of the cabinet, of the order
 8 appointing the court-appointed special advocate volunteer.

9 (2) If the court determines that further proceedings are required, the court also shall
 10 advise the child and his parent or other person exercising custodial control or
 11 supervision that they have a right to not incriminate themselves, and a right to a full
 12 adjudicatory hearing at which they may confront and cross-examine all adverse
 13 witnesses, present evidence on their own behalf and to an appeal.

14 (3) The adjudication shall determine the truth or falsity of the allegations in the
 15 complaint. The burden of proof shall be upon the complainant, and a determination
 16 of dependency, neglect, and abuse shall be made by a preponderance of the
 17 evidence. The Kentucky Rules of Civil Procedure shall apply.

18 (4) The disposition shall determine the action to be taken by the court on behalf of the
 19 child and his parent or other person exercising custodial control or supervision.

20 Section 667. KRS 620.145 is amended to read as follows:

21 (1) Within sixty (60) days of the commitment date of a child due to abuse, neglect, or
 22 dependency, the Cabinet for Health and Family Services~~[Families and Children]~~
 23 shall provide the court with jurisdiction an assessment of the child to determine:

- 24 (a) The child's current and historical educational functioning;
- 25 (b) The child's emotional and behavioral functioning; and
- 26 (c) The extent to which the child's life experiences and circumstances of
 27 commitment have created a disabling condition requiring special educational

1 programming or other services to provide the child an appropriate public
2 education.

3 (2) Upon discerning of an emotional, behavioral, or other disabling condition with
4 negative impact upon a child's educational experience, the Cabinet for **Health and**
5 **Family Services**~~[Families and Children]~~ as guardian of the child shall ensure that
6 whatever services necessary are obtained to allow the child the benefit of a free,
7 appropriate public education.

8 (3) Services required to allow the child a free, appropriate public education shall be
9 limited to those required under Section 504 of Pub. L. 93-112, Pub. L. 94-142, or
10 other federal statutes affecting children with emotional or behavioral disabilities.

11 (4) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall include
12 activities undertaken to ensure a child committed to the Cabinet for **Health and**
13 **Family Services**~~[Families and Children]~~ receives adequate public education in the
14 six (6) month case progress report required by KRS 620.240.

15 (5) Any child removed from his home due to abuse, neglect, or dependency and placed
16 in the least restrictive appropriate placement available shall, for the purposes of
17 acquiring an appropriate public education, be considered a resident of the school
18 district where the placement occurs.

19 (6) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall provide
20 a copy of the assessment required by subsection (1) of this section to the foster
21 parent, or other agency or entity providing residential care to a committed child,
22 within five (5) days of filing the assessment with the court.

23 Section 668. KRS 625.025 is amended to read as follows:

24 In the case of a child who has become a ward of the Cabinet for **Health and Family**
25 **Services**~~[Families and Children]~~ as a result of a termination of parental rights judgment
26 entered against the child's parents, and who remains a ward of the cabinet upon
27 attainment of his or her eighteenth birthday, the cabinet, in its discretion, upon request of

the ward, may extend its wardship to age twenty-one (21) for the purpose of the child's participating in state or federal educational programs or to assist the child in establishing independent living arrangements.

Section 669. KRS 625.041 is amended to read as follows:

(1) The parties to an action for voluntary termination of parental rights shall be the parent seeking termination, whose presence is not required if represented by counsel for the parent when an appearance-waiver and consent-to-adopt form is filed with the court, but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars (\$500), to be paid by the petitioner, except if the Cabinet for Health and Family Services~~[Families and Children]~~ receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

(3) The parent may sign an appearance-waiver and consent-to-adopt form when the parent chooses not to attend a voluntary termination of parental rights proceedings. This form, prescribed by the Administrative Office of the Courts, shall:

(a) Contain a statement of acknowledgment and agreement, regarding the appearance at the proceeding, signed by the parent, counsel for the parent, and the cabinet. If the parent is a minor, the form shall also be signed by the guardian of the minor parent;

(b) Contain the parent's notarized signature;

(c) Contain any address to which the parent requests the final judgment be served.

(4) If a joint petition is filed, counsel shall be designated as attorney for both parties.

Section 670. KRS 625.043 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of the parent and releasing the child from all legal

obligations to the parent and vesting care and custody of the child in the person, agency, or cabinet the court believes is best qualified to receive custody.

(2) Upon consent by the Cabinet for Health and Family Services~~[Families and Children]~~, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is not excepted by KRS 199.470(4) or (5), a grant of permanent custody shall be made only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement.

Section 671. KRS 625.100 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be terminated involuntarily in accordance with the provisions of this chapter, it shall enter an order that the termination of parental rights and the transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter. The order shall terminate all parental rights and obligations of such parent and release the child from all legal obligations to such parent and vest care and custody of the child in such person, agency, or cabinet as the court believes best qualified.

(2) Upon consent by the Cabinet for Health and Family Services~~[Families and Children]~~, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person, if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is unrelated to the child, a grant of custody shall be made only with the written approval of the secretary or his designee.

Section 672. KRS 635.520 is amended to read as follows:

1 (1) The Department of Juvenile Justice shall have the sole authority and responsibility
 2 for establishing the design of the juvenile sexual offender treatment program but
 3 shall consult with the Administrative Office of the Courts and the Cabinet for
 4 **Health and Family Services**~~[Families and Children]~~.

5 (2) The Department of Juvenile Justice may enter into agreements with public or
 6 private agencies in order to implement and operate the juvenile sexual offender
 7 treatment program.

8 Section 673. KRS 640.090 is amended to read as follows:

9 Upon the determination that a person is a youthful offender, the Cabinet for **Health and**
 10 **Family Services**~~[Families and Children]~~, the Department of Juvenile Justice, and all other
 11 public agencies possessing records relating to the youthful offender shall, upon request,
 12 provide copies of the records to the Kentucky Parole Board and to the Department of
 13 Corrections. No record relating to the child, except records maintained by the youthful
 14 offender's defense attorney or the Department of Public Advocacy, if he was defended by
 15 that department, shall be deemed privileged from disclosure to the Parole Board.

16 Section 674. The following KRS sections are repealed:

17 194B.005 Definitions for chapter.

18 194B.010 Cabinet for Families and Children -- Functions.

19 194B.025 Power and authority of secretary.

20 194B.030 Major organizational units of the cabinet.

21 194B.040 Internal organization of offices and departments -- Secretary's powers to
 22 create positions -- Election of coverage under unemployment insurance.

23 194B.050 Execution of policies, plans, and programs -- Administrative regulations --
 24 Fees.

25 194B.060 Confidentiality of records and reports.

26 194B.070 Utilizing community resources for delivery of services.

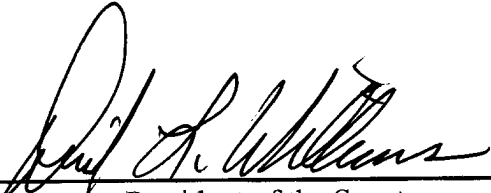
27 194B.080 Cost-allocation plan.

- 1 194B.090 Council for Families and Children.
- 2 194B.110 Kentucky Commission on Human Services Collaboration.
- 3 194B.130 Limitation on administrative processes.
- 4 194B.140 Special subcommittees of the Council for Families and Children.
- 5 194B.150 State officials as voting members of citizens' councils.
- 6 194B.160 Alternates or representatives for boards, commissions, and similar bodies.
- 7 194B.170 Secretary's authority to create special task forces, advisory committees, and
8 other citizens' panels.
- 9 194B.190 Gifts and grants to the Council for Families and Children.
- 10 194B.200 Compensation and expenses of members of the Council for Families and
11 Children -- Members of citizens' councils not public officers.
- 12 194B.360 Annual report on committed children -- Contents.
- 13 194B.500 Definitions for KRS 194B.505.
- 14 194B.505 Prohibited activities -- Commencement of proceedings for enforcement.
- 15 194B.510 Defense in prosecution.
- 16 194B.515 Access to criminal records by cabinet's agents.
- 17 194B.990 Penalties.

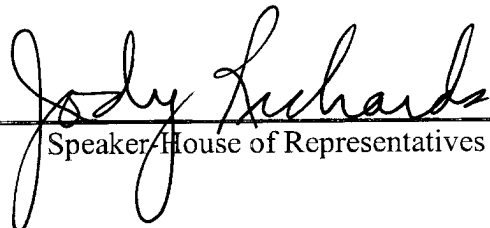
18 Section 675. In order to reflect the reorganization effectuated by this Act, the
19 reviser of statutes shall replace references in the Kentucky Revised Statutes to the
20 agencies, subagencies, and officers affected by this Act with references to the appropriate
21 successor agencies, subagencies, and officers established by this Act. The reviser of
22 statutes shall base these actions on the functions assigned to the new entities by this Act
23 and may consult with officers of the affected agencies, or their designees, to receive
24 suggestions.

25 Section 676. Notwithstanding any provision of law to the contrary, to the extent
26 that Executive Orders 2004-444 and 2004-726 are not otherwise confirmed or superseded
27 by this Act, the General Assembly hereby confirms that portion of Executive Order 2004-

1 444, dated May 11, 2004, that relates to the reorganization of the Cabinet for Health
2 Services and the Cabinet for Families and Children, as amended by Executive Order
3 2004-726, dated July 9, 2004, relating to the internal structure of the Cabinet for Health
4 and Family Services. The Office of the General Counsel was renamed the Office of Legal
5 Services. The Office of Legislative and Public Affairs was created and the Department for
6 Human Support Services were created. Undersecretaries for Health, Human Services,
7 Children and Family Services, and Administrative and Fiscal Affairs were organized with
8 oversight and management responsibility over designated departments and offices. The
9 Office of Women's Physical and Mental Health was redesignated the Division of
10 Women's Physical and Mental Health. The Office of Aging Services was redesignated the
11 Division of Aging Services. The Office of Family Resource and Youth Services Centers
12 was redesignated the Division of Family Resource and Youth Services Centers. The
13 Governor's Office of Child Abuse and Domestic Violence Services was redesignated the
14 Division of Child Abuse and Domestic Violence Services, within the Cabinet for Health
15 and Family Services.

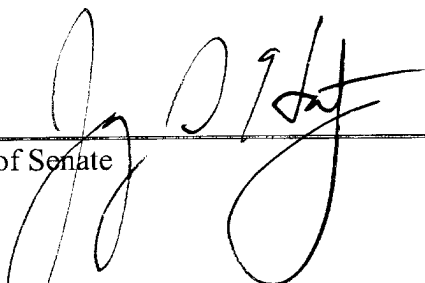


President of the Senate



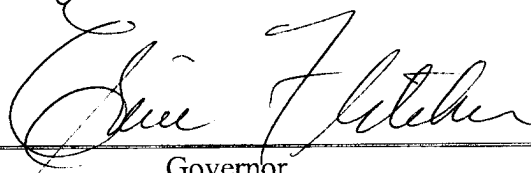
Speaker House of Representatives

Attest:



Chief Clerk of Senate

Approved



Governor

Date

